

June 23, 2004

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, June 23, 2004, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
JAMES L. ALLMENDINGER, Director of Finance
RHONDA G. HENDERSON, Director of Planning
JENNIFER M. HOOVER, Director of Public Works
FRANKLIN P. O'BYRNE, Director of Information Systems
DIANA C. STULTZ, Zoning Administrator
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

oooooOooooo

CALL TO ORDER
PLEDGE OF ALLEGIANCE AND INVOCATION.

Chairman Ahrend called the meeting to order at 6:00 p.m.

Director of Finance Allmendinger led the Pledge of Allegiance, and Administrator Paxton gave the invocation.

oooooOooooo

APPROVAL OF MINUTES.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as

follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; after making additions to pages 21 and 23, the Board approved the Minutes of the Regular Meeting held on June 9, 2004.

oooooOooooo

TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

He advised of a Public Scoping Meeting to be held on July 22, 2004, at Turner Ashby High School, to seek citizen suggestions and comments to help define the scope of the study with respect to the Harrisonburg Southeast Connector Location Study to meet transportation needs in the study area southeast of Harrisonburg between I-81 and U.S. Route 33.

Supervisor Kyger asked Mr. Komara to inspect the bridge (on Route 748, behind the Mennonite Church) which appears to need some repair to the concrete section.

Supervisor Cuevas asked if VDOT was going to do pipe work on Route 865, Bennett's Run. Mr. Komara said he believed they would try to coordinate the work with the clean up of the area so the same contractor could be used for both jobs.

Supervisor Cuevas noted that he needed to know the names of the landowners who were not cooperating on the Route 812 project; Mr. Komara will provide that information.

Supervisor Breeden asked if the restaurant parking would be blocked during the drainage project on the Route 33 bypass. Mr. Komara advised that the project would be staged so that at least one entrance would be open.

Mr. Paxton asked if the issues concerning improvements at Elkton Middle School had been worked out. Mr. Komara said permits had been requested for flashing lights and the entrance had been widened for two-way traffic. He noted that consultation with the School Board was necessary before the improvements could be completed.

In regard to the Scoping Meeting mentioned earlier, Supervisor Floyd asked if the southeast connector was to be the only one studied. Mr. Komara noted that the meeting was to help define the scope of the study.

Supervisor Floyd asked if the connector road study had been completed for the Metropolitan Planning Organization. Mr. Komara said the study had been done and he would provide it for the next meeting.

oooooOooooo

REQUEST FOR INDOOR COUNTY SWIMMING POOL.

The Board heard a presentation by Ms. Barbara Palmer, Swim Team Instructor, Spotswood High School, requesting an indoor swimming pool for the County. She explained that there was a high demand for practice facilities because the County high schools have swim teams. She suggested that the County bubble an existing outdoor pool or build a new pool for use by all County residents. Chairman Ahrend advised that the Board would take the request under consideration.

oooooOooooo

COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated June 18, 2004, including information on the foregoing request by Ms. Palmer, Fire & Rescue Public Education and Volunteer recruitment and retention, Safety Plan development, and the Community Development process.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to reclassify from part-time to full-time the Public Education Officer position in the Fire & Rescue Department.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to hire a part-time safety engineer to assist in evaluating the County's safety procedures and to appropriate for FY 2004-05 \$5,300 to 001-01218 Human Resources from the contingency.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to hire a building inspector and a part-time permit specialist and agreed to redesign the Community Development office layout in order to serve the public in a more efficient way, with funding from fees. The motion included a supplemental appropriation of \$65,000 to 03400 Building Inspections.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the 2004-05 Library contract, with the County's share of \$635,000, and authorized the Chairman to sign the contract.

COUNTY ATTORNEY'S STAFF REPORT.

Mr. Brown provided for the Board's consideration a proposed expansive soils policy.

Supervisor Cuevas pointed out that several inspections would have to be made, by an expert in the field of soil tests and by a person well versed in the proper foundations to build for particular soil types, before the County inspector signed off on a project. He asked who would be liable if the structure was not built properly. Mr. Brown advised that the engineer and architect who "signed off" on the project would be liable.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following Expansive Soils Policy.

Rockingham County Expansive Soils Policy

Pursuant to Section R401.4 of the Virginia Uniform Statewide Building Code "USBC" (2000 Edition), localities having 20% and greater moderate and high shrink/soil potential of a jurisdictional land area must implement an expansive soil test policy to establish minimum criteria to determine the circumstances which require testing for expansive soils and the minimum testing requirements. Rockingham County is included in this category. When soils on a parcel are determined to be expansive, the foundation design for any new residential construction thereon shall be in accordance with Section R403.1.8 of the USBC.

Parcels whose County Tax ID Number begin with any of the following numbers are designated as located in a potential expansive soil area: [tax map numbers]

This designation is based on the National Cooperative Soil Survey produced cooperatively by the Natural Resources Conservation Service and Virginia Polytechnic Institute and State University. Prior to the issuance of a permit involving new construction or an expansion of existing construction on any parcel identified above, the owner of such parcel must either:

1. submit a soils test report from a Virginia Certified Professional Soils Scientist for the proposed building site location on such parcel to determine the existence or absence of expansive soils; or
2. submit a site-specific design prepared or approved by a Virginia registered architect or engineer certifying that the design meets all requirements of the USBC, including Section R403.1.8. The design engineer or architect will also be required to certify that the

foundation has been installed in accordance with the design. The design shall include the general soil condition, a footing and foundation wall design, foundation drainage, and type of material to be used for backfill. All foundations shall be designed in accordance with accepted engineering practices. The designer's name, address and occupation shall be included on the design.

If expansive soils are confirmed as a result of the soil testing performed under number 1 above, then a site-specific design meeting the requirements of number 2 above shall be submitted.

3. The owner may elect to meet the standard criteria for construction in expansive soils areas, as approved by the building official, in lieu of submitting a soils test as outlined in number 1 above or a site specific design as set forth in number 2 above.

Testing Requirements

1. The following minimum requirements shall be applicable to soils analysis reports prepared for a single lot to obtain a building permit:
 - a. A minimum of two soil borings per site shall be taken within the footprint of the proposed structure.
 - b. The minimum depth of test borings shall be five feet or to auger refusal on non-shrink/swell geologic strata. The investigation shall extend a minimum of 12 inches below the recommended footing depth unless auger refusal is encountered.
 - c. A sample which exhibits the "poorest" observed soil quality from each lot within a zone 0" to 12" below the proposed bottom of the footing, shall be taken for laboratory testing.
2. Report requirements:
 - a. The investigator shall provide soil bore logs of all soil bores or pits investigated at the site.
 - b. The report information shall include a site sketch to a scale which identifies a bore hole or pit locations and documents the location of the lot or parcel being investigated.
 - c. The report shall contain a tabulation of all laboratory test results obtained from samples collected from the site.
 - d. The report shall contain the signature and professional seal of the individuals who perform and/or supervise the field testing, laboratory testing and report preparation. (Laboratory test procedures shall, at a minimum, contain one set of index parameters which are performed using ASTM test

procedures or a County approved test method). ASTM unified soil classification is not acceptable as a test standard for purposes of this policy.

Subdivisions

As an alternative to the individual lot study method described above, a preliminary soil study may be performed by a Virginia Certified Professional Soil Scientist for all new subdivisions or expansions of existing subdivisions. Based on this study, further testing may be required on individual lots where deemed necessary and at a frequency prescribed by the Virginia Certified Professional Soil Scientist. Such recommendations shall be included in the study and submitted to the building commissioner.

Exceptions

Testing is required for most additions to residential structures. Minor additions may be excluded from this policy on a case by case basis as approved by the building official. Testing is not required for accessory structures not intended for human occupancy or without permanent foundations.

oooooOooooo

DEPUTY COUNTY ADMINISTRATOR’S STAFF REPORT.

The Board received and reviewed Mr. King’s staff report dated June 18, 2004, concerning the United Way’s request for designation as the Local Council addressing Early Childhood Issues.

Elissa McDonald, Executive Director, United Way, read a statement explaining that the United Way Success by 6 Regional Early Literacy Coalition sought designation by the Board as the Local Council addressing Early Childhood Issues in order to apply for a 2004 Early Learning Opportunities Act Discretionary Grant for early literacy work with young children.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the designation as requested.

oooooOooooo

PUBLIC HEARING - SPECIAL USE PERMITS.

At 7:00 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the following special use permit applications. Ms. Stultz reviewed the details of each request.

S04-31, request of Dwight A. Walton, 714 Endless Caverns Road, Timberville, for a permit for a residence involving a division of land to a non-family member on property located on the north side of Endless Caverns Road (Route 793) approximately 1/2 mile east of North Valley Pike (Route 11) in Plains Magisterial District, Election District #1, zoned A-1. Tax Map #54-(A)-41A.

The applicant was present to answer questions.

S04-35, request of Humane Alliance of WNC, 231 Haywood Street, Ashville, NC, for an animal hospital (spay/neuter clinic) on property located on the east side of South Valley Pike (Route 11) approximately 6/10 mile south of Carpenter Lane in Ashby Magisterial District, Election District #4, Zoned M2. Tax Map #123D-(2)-3.

Suzanne Ackerman, representing the applicant, was present to answer questions. No opposition was expressed.

S04-36, request of Stephen Andrew Wanger, 8662 Rawley Pike, Hinton, for a residence involving a division of land to nephew on property located on the north side of Rawley Pike (Route 33) approximately 1 mile west of Whitmore Shop Road (Route 613) in Central Magisterial District, Election District #2, Zoned A1. Tax Map #90-(A)-224A.

The applicant was present to answer questions. No opposition was expressed.

S04-37, request of Jennifer Breeden, 19393 Red Brush Road, Elkton, for a residence involving a division of land to family member on property located on the northeast side of Red Brush Road (Rt. 607) approximately 3/10 mile southeast of Fox Mountain Road (Route 759) in Stonewall Magisterial District, Election District #5, Zoned A1. Tax Map #116-(A)-29A.

There were no requests to speak on this application.

S04-38, request of Southeastern Mennonite Conference, West Rockingham District, c/o Linden Rhodes, Treasurer, 7156 Well Hollow Road, Singers Glen for a tent and sign for tent revival on property located on the northwest side of Harpine Highway (Route 42) and Brenneman Church Road (Route 778) in Linville Magisterial District, Election District #2, Zone A1. Tax Map #79-(A)-8.

There were no requests to speak on this application.

S04-39, request of Olde Town LLC, P. O. Box 27, McGaheysville, for outside merchandise display on property located on the north side of McGaheysville Road (Route 996) approximately 1/10 mile west of Island Ford Road (Route 649) in Stonewall Magisterial District, Election District #5, Zoned B2 conditional. Tax Map #142A2-(A)-14.

Lisa Hawkins, representing the applicant, was present to answer questions. No opposition was expressed.

S04-40, request of Rhonda Freed, 14762 Strooptown Road, Timberville, for a private family cemetery on property located on the west side of Gochenour Lane (private road) approximately 1/4 mile west of German River Road (Route 865) in Plains Magisterial District, Election District #1, Zoned A-2. Tax Map #14-(A)-12A.

Ms. Stultz noted that staff received a call concerning the distance the cemetery would be located from a well. She advised that the cemetery would have to meet Health Department regulations.

The applicant was present to answer questions.

No opposition was expressed.

Chairman Ahrend closed the public hearing and called the regular session back to order at 7:16 p.m.

Noting that the Walton request was for a site across the road from the main tract where the applicant intended to build a house to live in, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-31, request of Dwight A. Walton, 714 Endless Caverns Road, Timberville, for a permit for a residence involving a division of land to a non-family member on property located on the north side of Endless Caverns Road (Route 793) approximately 1/2 mile east of North Valley Pike (Route 11) in Plains Magisterial District, Election District #1, zoned A-1. Tax Map #54-(A)-41A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) An entrance permit shall be obtained from VDOT's Harrisonburg Residency and shall be submitted to the Community Development Department prior to deed exception approval.
- (4) This permit is contingent upon applicant obtaining an on-site sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (5) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (6) This residence shall not be used for rental purposes.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the Humane Alliance of WNC request was in a business district with an adequate entrance, on motion by Supervisor Kyger, seconded by Supervisor Breedon and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-35, request of Humane Alliance of WNC, 231 Haywood Street,

Ashville, NC, for an animal hospital (spay/neuter clinic) on property located on the east side of South Valley Pike (Route 11) approximately 6/10 mile south of Carpenter Lane in Ashby Magisterial District, Election District #4, Zoned M2. Tax Map #123D-(2)-3.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Any alterations to the existing building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained for alterations.
- (3) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (4) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (5) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (6) Off-street parking shall comply with the Rockingham County Code.
- (7) This business shall not begin operation until such time as a certificate of occupancy is issued by the County if required by the Building Official. If required, no certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the Wanger request was for a family member and an attempt to keep the family together in an agricultural area, Chairman Ahrend asked for a motion for approval. On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-36, request of Stephen Andrew Wanger, 8662 Rawley Pike, Hinton, for a residence involving a division of land to nephew on property located on the north side of Rawley Pike (Route 33) approximately 1 mile west of Whitmore Shop Road (Route 613) in Central Magisterial District, Election District #2, Zoned A1. Tax Map #90-(A)-224A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.

- (3) In accordance with VDOT requirements, the property shall be accessed by a right-of-way across Jerry Heatwole and Donnie Wanger.
- (4) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (5) This residence shall not be used for rental purposes.
- (6) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Breeden, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-37, request of Jennifer Breeden, 19393 Red Brush Road, Elkton, for a residence involving a division of land to family member on property located on the northeast side of Red Brush Road (Rt. 607) approximately 3/10 mile southeast of Fox Mountain Road (Route 759) in Stonewall Magisterial District, Election District #5, Zoned A1. Tax Map #116-(A)-29A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) Entrance shall be installed as outlined in permit #04-75.
- (4) This permit is contingent upon applicant obtaining an on-site sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (5) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (6) This residence shall not be used for rental purposes.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

At Chairman Ahrend's request, on motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-38, request of Southeastern Mennonite Conference, West Rockingham District, % Linden Rhodes, Treasurer, 7156 Well Hollow Road, Singers Glen for a tent and sign for tent revival on property located on the northwest side of Harpine Highway (Route 42) and Brenneman Church Road (Route 778) in Linville Magisterial District, Election District #2, Zone A1. Tax Map #79-(A)-8.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) The tent shall meet the Virginia Uniform Statewide Building Code and the proper permits shall be obtained.
- (3) VDOT requires that 3" of 21A stone be placed on the entrance and that the sign would be off the State right-of-way.
- (4) On-premise sign shall comply with the Rockingham County Code.
- (5) Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on State right-of-way.
- (6) The tent shall be located on the property no more than 14 days at any one time.
- (7) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-39, request of Olde Town LLC, P. O. Box 27, McGaheysville, for outside merchandise display on property located on the north side of McGaheysville Road (Route 996) approximately 1/10 mile west of Island Ford Road (Route 649) in Stonewall Magisterial District, Election District #5, Zoned B2 conditional. Tax Map #142A2-(A)-14.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Any signage shall meet both VDOT and Rockingham County requirements.

- (3) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (4) All requirements for outside display shall be met in accordance with 17-116.1 of the Rockingham County Code.
- (5) Only items pertaining to the store on the property shall be displayed.
- (6) The outside display area shall not infringe on the parking approved with the site plan.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-40, request of Rhonda Freed, 14762 Strooptown Road, Timberville, for a private family cemetery on property located on the west side of Gochenour Lane (private road) approximately 1/4 mile west of German River Road (Route 865) in Plains Magisterial District, Election District #1, Zoned A-2. Tax Map #14-(A)-12A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (3) All state regulations pertaining to private cemeteries shall be met.
- (4) The area to be used as the cemetery shall be fenced within one year from date of approval of this permit.

oooooOooooo

PUBLIC HEARING - REZONING APPLICATIONS.

At 7:20 p.m., Chairman Ahrend declared the meeting open for a public hearing on the following rezoning applications. Ms. Henderson presented the staff reports and Planning Commission recommendations.

RZ04-9 Sunnyside Presbyterian Home, 600 L University Blvd, Harrisonburg, 22801, request to rezone 1.281 acres from R3 (General Residential) to R5 (Planned Residential) on tax parcels 125 (A) 234 and 235 and located on the east side of Massanetta Springs Road (Route 687) approximately 0.8 mile south of Spotswood

Trail (Route 33) in Election District #3. The Comprehensive Plan designates this area as Community Residential. R5 allows 8 dwelling units per gross acre.

The Planning Commission concurred with the staff recommendation: *The proposed rezoning for the construction of 6 cottages and the amendment of the Master Plan to include one additional cottage are compatible with the Comprehensive Plan, the existing Sunnyside Presbyterian Home, and the surrounding community.*

Dick Blackwell, Blackwell Engineering, represented the applicant. He noted that the proposal would fill in some empty spaces on the site and would probably not add any children to the public schools.

No opposition was expressed.

RZ04-10 Rodney Eagle, 1188 Port Republic Road, Harrisonburg, 22801, request to rezone .291 acre from R1 (Low Density Residential) and .844 acre from A2 (General Agriculture) to CR3 (General Residential with Conditions); and .272 acre from A2 (General Residential) to R1 (Low Density Residential) and located northwest of Rhianon Lane (in City) approximately 15 feet east of Rorrer Circle (Route 1144), in Election District #4. The Comprehensive Plan designates this area as Community Residential. R1 density allows 2.9 single-family dwellings per acre. R3 density allows 4.3 single-family dwellings per acre.

The Planning Commission concurred with the staff recommendation: *This request lies within a Community Residential area, is compatible with the existing residential development along Rorrer Circle and Rhianon Lane, and will be served by City water and sewer.*

Dick Blackwell, Blackwell Engineering, represented the applicant. He noted that the applicant intended to make the houses compatible with the rest of those in the neighborhood.

Walter Mann expressed concern that, although the applicant has given assurance the houses would be the same as others in the neighborhood, if the property were sold to another developer, that assurance might be lost.

Ms. Henderson explained that restrictive covenants are a civil matter. She pointed out that the proffers only addressed the fact that

the houses would be single-family dwellings, and the applicant could build whatever was allowed under the County's ordinances.

Dondria Holsinger said the neighbors wanted the houses to be a part of the subdivision.

Mr. Brown said the County did not have the authority to make such a requirement.

Ms. Mann objected to the "mother-in-law" apartments being permitted.

Ms. Henderson said that was a very restrictive area, which a family member could use.

Mr. Blackwell noted that it was the very same zoning as the other houses in the area, that those already living there were allowed to do the same thing.

RZ04-11 Randy Cosner, P. O. Box 609, Broadway, 22815, request to rezone 1.1 acres from R2 (Medium Density Residential) to CR3 (General Residential with Conditions), located southeast intersection of Lone Pine Drive (Route 618) and American Legion Drive (Route 800), in Election District #1. The Comprehensive Plan designates this area as Community Residential.

The Planning Commission concurred with the staff recommendation: *The request is compatible with the Comprehensive Plan and will be served by public water and sewer. The proffers serve to introduce another, but compatible, housing type in this area.*

The applicant was present to answer questions. No opposition was expressed.

RZ04-12 Great Eastern Resort Corporation, request to rezone 1.108 acres from R1 (Low Density Residential) to A2 (General Agricultural) located on the east side of State Route 647 approximately 8,000 feet north of Spotswood Trail (Route 33), in Election District #5. The Comprehensive Plan designates this area as Agricultural Reserve.

The Planning Commission concurred with the staff recommendation: *Rezoning this site to A2 is compatible with the Comprehensive Plan land use designation of Agricultural Reserve.*

Todd Rhea, Clark and Bradshaw, represented the applicant. He advised that the request was actually a "downzoning" to give Great Eastern road frontage.

No opposition was expressed.

Chairman Ahrend closed the public hearing and called the regular session back to order at 7:50 p.m.

Noting that the Sunnyside request was part of the overall master plan and there "would not be any better use for the land," on motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ04-9 Sunnyside Presbyterian Home, 600 L University Blvd, Harrisonburg, 22801, request to rezone 1.281 acres from R3 (General Residential) to R5 (Planned Residential) on tax parcels 125 (A) 234 and 235 and located on the east side of Massanetta Springs Road (Route 687) approximately 0.8 mile south of Spotswood Trail (Route 33) in Election District #3.

Noting that the applicant had proffered to have "the same zoning requirements as the two like neighborhoods," on motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following proffers, the Board approved RZ04-10 Rodney Eagle, 1188 Port Republic Road, Harrisonburg, 22801, request to rezone .291 acre from R1 (Low Density Residential) and .844 acre from A2 (General Agriculture) to CR3 (General Residential with Conditions); and .272 acre from A2 (General Residential) to R1 (Low Density Residential) and located northwest of Rhianon Lane (in City) approximately 15 feet east of Rorrer Circle (Route 1144), in Election District #4.

Each parcel will be used for single family detached housing only. The two parcels will be subdivided into five lots. Two lots will be on Rorrer Circle and three lots on Rhianon Lane. The two lots on Rorrer Circle will have all the uses as described in R1

zoning. The three lots on Rhianon Lane, zoned R3 Conditional, will only be used for: single family detached dwelling
single family dwelling with independent living quarters and accessory uses.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following proffers, the Board approved RZ04-11 Randy Cosner, P. O. Box 609, Broadway, 22815, request to rezone 1.1 acres from R2 (Medium Density Residential) to CR3 (General Residential with Conditions), located southeast intersection of Lone Pine Drive (Route 618) and American Legion Drive (Route 800), in Election District #1.

The Town of Timberville has agreed to supply water and sewer connections to this site.

The use of this property shall be limited to townhouses.

Noting that the Great Eastern rezoning would be of "benefit to the adjacent landowners," on motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ04-12 Great Eastern Resort Corporation, request to rezone 1.108 acres from R1 (Low Density Residential) to A2 (General Agricultural) located on the east side of State Route 647 approximately 8,000 feet north of Spotswood Trail (Route 33), in Election District #5.

oooooOooooo

**FINANCE DIRECTOR'S STAFF REPORT -
APPROVAL OF AMENDMENT TO FY 04-05 ADOPTED BUDGET; APPROVAL OF
APPROPRIATION FY 04-05 BUDGET; APPROVAL - YEAR-END SUPPLEMENTAL
APPROPRIATIONS - FY 03-04 BUDGET**

Mr. Allmendinger reviewed the following summary of the items included in the proposed amendment to the Fiscal Year 2004-2005 Adopted Budget.

- Salary and fringe benefit increase of 3%, effective December 1, 2004, to Constitutional Officer budgets

approved by the General Assembly with the exception of the Sheriff, deputy Sheriffs, and regional jail officers who will receive a salary increase of 4.82%, effective December 1, 2004.

- General Government Administration (Treasurer's Office and Commissioner of the Revenue Office)
+ \$ 12,000
 - Judicial Administration (Clerk of the Circuit Court and Commonwealths Attorney)
+ \$ 17,000
 - Public Safety (Sheriff's Office - Law Enforcement and Jail)
+ \$ 150,000
- The Board approved a supplemental appropriation on April 28, 2004, to move \$ 125,000 of the community project funds from FY 2004-2005 into FY 2003-2004 for the Elkton Community Center at the request of the Town of Elkton. The Town of Elkton requests that this amount be moved back to FY 2004-2005.
 - The School Fund is showing a change of \$ 1,474,682 to reflect the increase in funding from the Commonwealth of Virginia of \$ 2,424,682 and an offsetting transfer of \$ 950,000 from the County to be reclassified to the Capital Projects Fund for funding of future school building projects.
 - State Revenue is being revised a total of \$ 140,000 which is the result of funding changes by the Commonwealth of Virginia for the Constitutional Officers.

Supervisor Kyger made the following statement:

1. TRANSACTIONS INVOLVED: Consideration and adoption of FY 04-05 Adopted Budget amendment, appropriation of the amended FY 04-05 Budget and approval of the year-end supplemental appropriations to the FY 03-04 Budget.

2. NATURE OF PERSONAL INTEREST IN THE TRANSACTION: I am an employee of the Rockingham County School Board. Therefore, I am affected by this Board's decisions concerning school funding and similar issues.

3. As a teacher, I am a member of an occupation the members of which are affected by the transaction specified in paragraph 1.

4. I am able to participate in the transactions fairly, objectively, and in the public interest.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following: amended the FY 2004-05 Budget by the addition of the following revenues and expenditures and appropriated the amended revenues and expenditures for FY 2004-05:

EXPENDITURES				
		ADOPTED	AMENDMENTS	AMENDED
		FY 04-05	FY 04-05	FY 04-05
<u>GENERAL FUND</u>				
General Government Administration		\$ 4,531,146	\$ 12,000	\$ 4,543,146
Judicial Administration		2,590,033	17,000	2,607,033
Public Safety		13,405,025	150,000	13,555,025
Public Works		1,373,489	0	1,373,489
Human Services		1,191,724	0	1,191,724
Parks, Recreation & Cultural		1,671,717	0	1,671,717
Community Development		2,281,586	0	2,281,586
Contributions		454,528	0	454,528
Contingency		500,000	0	500,000
Other Expenses		81,000	0	81,000
Transfers to Other Funds		38,941,764	125,000	39,066,764
Debt Service - County		572,231	0	572,231
Debt Service - Schools		4,976,309	0	4,976,309
TOTAL - GENERAL FUND		\$ 72,570,552	\$ 304,000	\$ 72,874,552
Capital Projects Fund		\$ 4,861,000	\$ 1,075,000	\$ 5,936,000
School Capital Projects Fund		11,000,000	0	11,000,000
School Fund		85,584,565	1,474,682	87,059,247
School Cafeteria Fund		3,828,100	0	3,828,100
School Textbook Fund		896,433	0	896,433
Massanutten Technical Center Fund		4,487,330	0	4,487,330
E911 Communications Fund		626,737	0	626,737
Asset Forfeiture Fund		80,000	0	80,000
Harrisonburg-Rockingham Social Services District		14,491,010	0	14,491,010
Central Stores Fund		28,000	0	28,000
Utilities Fund		6,320,586	0	6,320,586
Lilly Subdivision Sanitary District		24,065	0	24,065
Smith Creek Water & Wastewater Authority		814,150	0	814,150
Countryside Sanitary District		239,710	0	239,710
Solid Waste Fund		4,510,220	0	4,510,220
Human Resources Rental Fund		233,672	0	233,672
TOTAL EXPENDITURES		\$ 210,596,130	\$ 2,853,682	\$ 213,449,812
REVENUES				
		ADOPTED	AMENDMENTS	AMENDED
		FY 04-05	FY 04-05	FY 04-05
<u>GENERAL FUND</u>				
General Property Taxes		\$ 43,675,000	\$ 0	\$ 43,675,000
Other Local Taxes		7,068,000	0	7,068,000
Other Local Revenue		5,764,629	0	5,764,629
State Revenue		13,779,053	140,000	13,919,053
Federal Revenue		983,907	0	983,907
Balance Carried Forward		1,299,963	164,000	1,463,963
TOTAL GENERAL FUND		\$ 72,570,552	\$ 304,000	\$ 72,874,552

Capital Projects Fund		\$ 4,861,000	\$ 1,075,000	\$ 5,936,000
School Capital Projects Fund		11,000,000	0	11,000,000
School Fund		85,584,565	1,474,682	87,059,247
School Cafeteria Fund		3,828,100	0	3,828,100
School Textbook Fund		896,433	0	896,433
Massanutten Technical Center		4,487,330	0	4,487,330
E911 Communications Fund		626,737	0	626,737
Asset Forfeiture Fund		80,000	0	80,000
Harrisonburg-Rockingham Social Services District		14,491,010	0	14,491,010
Central Stores Fund		28,000	0	28,000
Utilities Fund		6,320,586	0	6,320,586
Lilly Subdivision Sanitary District		24,065	0	24,065
Smith Creek Water & Wastewater Authority		814,150	0	814,150
Countryside Sanitary District		239,710	0	239,710
Solid Waste Fund		4,510,220	0	4,510,220
Human Resources Rental Fund		233,672	0	233,672
TOTAL REVENUES		\$ 210,596,130	\$ 2,853,682	\$ 213,449,812

authorized the Treasurer to transfer from the General Fund to the following funds, as may be required:

School Fund	\$35,219,411
H/R Social Services District	1,911,353
Capital Projects Fund	1,936,000

and authorized the Treasurer to transfer from the School Fund \$2,776,004 to the Massanutten Technical Center Fund.

Mr. Allmendinger reviewed the following staff recommendations, which also were recommended by the Finance Committee.

1. Central Garage

A supplemental appropriation in the amount of \$36,000 for the Central Garage due to the increase in gasoline prices. These costs will be offset by supplemental revenue of the Central Garage.

Supplemental Appropriation:

\$36,000	GL Code: 001-01221-000-6008-000	Vehicle & Powered Equipment
		Fuel
\$36,000	GL Code: 001-01619-1100	Garage Fuel Charges

2. Commonwealth's Attorney

A supplemental appropriation for a grant program managed by the Commonwealth's Attorney. The revenue provided by the grant will fund the program.

Supplemental Appropriation:

\$25,000	GL Code: 001-02201-800-1100-000	Salaries & Wages
----------	---------------------------------	------------------

\$25,000

GL Code: 001-03900-2300

Community Prosecution Grant
OJP-CATT-Community
Prosecution Program

3. Maintenance

A supplemental appropriation in the amount of \$41,450 for maintenance, mostly due to unexpected repairs and the increase in heating services because of the increase in gas prices. These costs will be absorbed by the Fund Reserve.

Supplemental Appropriation		
\$10,000	GL Code: 001-04305-000-3301-000	Repairs & Maintenance
\$ 3,200	GL Code: 001-04305-000-5102-000	Heating Services
\$ 1,000	GL Code: 001-04306-000-1100-000	Salaries & Wages
\$ 3,200	GL Code: 001-04306-000-3301-000	Repairs & Maintenance
\$ 4,500	GL Code: 001-04307-000-5101-000	Electrical Services
\$ 1,200	GL Code: 001-04307-000-5102-000	Heating Services
\$ 350	GL Code: 001-04307-000-5103-000	Water & Sewer Services
\$ 4,000	GL Code: 001-04310-000-3301-000	Repairs & Maintenance
\$ 4,000	GL Code: 001-04310-000-5102-000	Heating Services
\$10,000	GL Code: 001-04311-000-5102-000	Heating Services
\$41,450	GL Code: 001-05201-0100	Fund Reserve

4. Parks, Recreation & Cultural

A supplemental appropriation in the amount of \$15,000 for Parks & Recreation due to the increased number of participants in programs and the related costs. These costs should be covered by fees received.

Supplemental Appropriation		
\$15,000	GL Code: 001-07104-000-6013-000	Recreational Supplies
\$15,000	GL Code: 001-01613-0100	Recreation Fees

A supplemental appropriation in the amount of \$10,000 for the Asset Forfeiture Fund due to increased expenditures related to drug enforcement and prosecution. Funding is available from the Asset Forfeiture Fund Reserve.

Supplemental Appropriation		
\$10,000	GL Code: 211-02201-000-6014-000	Other Operating Supplies
\$10,000	GL Code: 211-05201-0100	Fund Reserve

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved the foregoing Year-End Supplemental Appropriations for the FY2003-04 Budget.

oooooOooooo

PUBLIC WORKS DIRECTOR’S STAFF REPORT.

The Board received and reviewed Ms. Hoover’s staff report dated June 18 2004, including information concerning progress on the sewer project for Route 11 North; Lilly Gardens; Countryside water system; Penn Laird Drive and Water Tower Road sewer; Lakewood/Massanetta Springs pump station, Spotswood High School waterline extension, Wal-

Mart water and sewer project, Three Springs back-up power, Grottoes Container Site, Vulnerability Assessment Report as required by Safe Drinking Water Act, and Consumer Confidence Reports mailed last week to customers on Three Springs, Mt. Crawford, Rosedale, Smith Creek, Harmony Hills, Lilly and Countryside Water Systems.

oooooOooooo

COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated June 18, 2004, including information concerning the proposed Subdivision Ordinance re-write, the McGaheysville Area Study, projects underway, upcoming requests, and tabled requests.

ADOPTION OF AMENDED AND REENACTED SUBDIVISION ORDINANCE, CHAPTER 16, AND RELATED AMENMDMENTS TO ZONING ORDINANCE, CHAPTER 17, COUNTY CODE.

Ms. Stultz reminded the Board that, at the meeting on June 9, 2004, Board members requested two additions to the Subdivision Ordinance rewrite - one to define public utilities and the other to allow people owning parcels zoned A-1, that are less than 40 acres at the time of enactment of the Ordinance, to be allowed to divide their property in accordance with the Ordinance. She provided the Board with the requested additions and noted that, if adopted, they would also become part of the changes to the Zoning Ordinance.

She suggested that the Ordinance be effective September 1, 2004, to allow people in the process of dividing their properties to have time to complete the divisions and to allow staff adequate time to distribute the new regulations to the public.

Supervisor Kyger moved to adopt the Subdivision Ordinance as recommended by staff, effective August 23, 2004, or 60 days from tomorrow, June 24, 2004, and that staff immediately notify all landowners that are in the process of subdividing their land of the effective date of the ordinance.

Mr. Brown advised that the motion should say that subdivision deeds that have been submitted for approval as of that date will be under the old version of the Ordinance.

Supervisor Kyger added that statement to his motion.

Supervisor Cuevas seconded the motion, amending and reenacting the following Chapter 16, Subdivision Ordinance, and amendments to Chapter 17, Zoning Ordinance, Rockingham County Code. The motion carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

**ORDINANCE TO AMEND AND REORDAIN CHAPTER 16
(SUBDIVISION ORDINANCE) OF THE ROCKINGHAM COUNTY CODE**

Chapter 16 SUBDIVISION OF LAND

*Prior ordinance history--Ordinances 4-30-62, 5-11-70, 3-29-71, 6-31-72, 9-10-73, 5-25-76, 5-9-77; Post Code Ordinances 81-2, 4-27-81; 85-4, 3-27-85; 85-7, 7-10-85; 87-5, 4-22-87; 87-8, 8-12-87; 90-15, 11-14-90; 91-2, 3-27-91; 92-10, 6-24-92; 92-19, 10-28-92; 92-26, 12-16-92; 92-27, 12-16-92; 92-28, 12-16-92; 93-8, 8-25-93; 93-13, 11-10-93; 94-8, 5-25-94; 94-11, 5-25-94; 95-5, 5-24-95; 95-6, 5-24-95; 95-7, 5-24-95; 95-8, 5-24-95; 96-6, 3-13-96; 96-15, 9-25-96; 97-5, 4-23-97; 97-6, 4-23-97; 97-12, 7-23-97; 97-13, 7-23-97; 97-17, 8-27-97; 98-3, 5-27-98; 98-4, 5-27-98; 98-11, 9-23-98; 99-5, 3-24-99;

ARTICLE I. IN GENERAL

Sec. 16-1. Title.

This chapter is known and may be cited as the "Subdivision Ordinance of Rockingham County, Virginia."
(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-2. Purpose and intent of chapter.

(a) *It is the policy of the county that the subdivision of land in the county, in accordance with reasonable requirements and guidelines, confers benefits upon the individual landowner and upon the community. When a landowner seeks to acquire the advantages of lot subdivision, the landowner must comply with the reasonable conditions established by the board for design, dedication, improvement and restrictive use of land so as to conform to the adopted comprehensive plan for the physical and economical development of the county and for the health, safety, convenience, and general welfare of the future lot owners in the subdivision and of the community at large.*

(b) *The subdivision of land is subject to the power of the county to implement the comprehensive plan. This chapter is adopted for the following purposes:*

- (1) To establish the procedure which must be followed in order to subdivide land in the county;
- (2) To ensure that this process includes appropriate and applicable reviews;
- (3) To protect and improve the public health, safety, convenience and welfare of the citizens of the county;
- (4) To ensure that residential areas are provided with healthy surroundings for family life; and
- (5) To ensure that the growth of the community is consonant with the efficient and economical use of public funds.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section. Certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise.

Adjoining: Touching; abutting; contiguous.

Agent. The representative of the board of supervisors who administers this chapter.

Agriculturally zoned. Any land zoned A-1 or A-2 by the county zoning ordinance.

Alley. A permanent service way providing a secondary means of access to adjoining properties.

Board. "Board" shall mean the board of supervisors of Rockingham County, Virginia.

Clerk. The clerk of the Circuit Court of Rockingham County, Virginia.

Commission. The planning commission of Rockingham County, Virginia.

County Administrator: The chief administrative officer of Rockingham County, Virginia.

County Attorney: The attorney for Rockingham County, Virginia, or his designee.

Cul-de-sac. The turn-around at the end of a dead-end street having an appropriate width for a safe and convenient reverse traffic movement.

Distances and areas. Refer to measurements in a horizontal plane.

Division: The dividing of land as allowed by this chapter.

Easement. A grant by a property owner of the use of land for a specific purpose or purposes.

Erosion & Sediment Control Administrator. The individual, or designated agent, responsible for the administration of the erosion and sediment control policy for Rockingham County, Virginia.

Fee simple. Absolute ownership of real property.

Fire Chief. The Fire and Rescue Chief, or designated agent, of Rockingham County, Virginia.

Frontage. That line of a lot which adjoins a street or right-of-way unless the building location dictates otherwise.

Health Official. The health director, or designated agent, of Rockingham County, Virginia.

Highway: The word "highway" shall be construed to embrace streets, avenues, boulevards, alleys, lanes, viaducts, publicly maintained parking lots and all other public ways in the county.

Highway engineer. The resident engineer, or designated agent, employed by the Virginia Department of Transportation.

Lot. A measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or of development.

Lot consolidation: Combination of two (2) or more lots or parcels under the same ownership into a single lot or parcel.

Lot, corner. A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets unless the direction in which the primary building faces dictates otherwise.

Lot, depth of. The average horizontal distance between the front and rear lot lines.

Lot, double frontage. An interior lot having frontage on two (2) streets.

Lot, interior. Any lot other than a corner lot.

Lot of record. A lot, described by deed or on a plat, which has been recorded in the office of the clerk.

Lot, width of. The average horizontal distance between side lot lines.

Parent tract. The parcel from which a subdivision is made.

Plat. The schematic representation of land divided or to be divided, prepared by a surveyor licensed by the Commonwealth of Virginia. When used as a verb, "plat" is synonymous with "subdivide."

Prescriptive right-of-way. An easement obtained by usage across another's property allowing access through such property.

Property. Any tract, lot, parcel or several of such tracts, lots, parcels, etc., collected together for the purpose of subdividing.

Public Sewer – Any system of pipelines or conduits, pumping stations, force mains, sewage treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for conducting or treating sewage, which is owned or controlled by Rockingham County or any authority or district created thereby, or any municipal corporation or other public entity created thereby located within the boundaries of Rockingham County, or which is owned and operated by a public utility as defined in Virginia Code Section 56-265.1 of the Code of Virginia, 1950 as amended, or its successor statute.

Public Water – Any system of pipelines or conduits, pumping stations, force mains, water treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for providing water services, which is owned or controlled by Rockingham County or any authority or district created thereby, or any municipal corporation or other public entity created thereby located within the boundaries of Rockingham County, or which is owned and operated by a public utility as defined in Virginia Code Section 56-265.1 of the Code of Virginia, 1950 as amended, or its successor statute.

Public Works Director. The Director of Public Works, or designated agent, of Rockingham County, Virginia.

Right-of-way. A strip of land acquired by grant, reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, and other similar uses, generally, for the right of one to pass over the property of another.

Setback line. The minimum distance into any lot measured from the property line at the location where the lot meets minimum width required for building.

Shall. The word "shall" means mandatory.

Stormwater management: (1) The control, regulation, or treatment of stormwater runoff, especially relating to the effects of land development on the natural hydrology and the facilities associated therewith, including but not limited to stormwater retention and detention ponds, storm sewers, drainage easements and other drainage facilities. (2) A program which deals with quantity and quality of stormwater runoff.

Street. The principal means of access to abutting properties.

Street or alley, public use of. The unrestricted use of a specified area or right-of-way for ingress and egress to two (2) or more adjoining properties.

Street, dead-end. A street with only one (1) outlet and having a cul-de-sac with an appropriate width for a safe and convenient reverse traffic movement.

Street, dual. A street with opposing lanes separated by a median strip or center island, which cannot be crossed except at designated locations.

Street, major. A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred (500) vehicles per day.

Street, minor. A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred (500) vehicles per day.

Street, service drive. A public right-of-way generally parallel and contiguous to a major highway, designed to promote safety by regulating ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

Street standards. Virginia Department of Transportation Subdivision Street Requirements and all other standards incorporated by reference, as amended from time to time.

Street width. The total width of the strip of land dedicated or reserved for public travel, including roadways, curbs, gutters, sidewalks and planting strips.

Subdivide. To divide, partition or develop any parcel into two (2) or more lots or parcels in compliance with this chapter. The exceptions set out in section 16-9 shall be subject only to those requirements of said section.

Subdivider. Any one or more individuals, corporations, partnerships, limited liability companies or other legally recognized entity, owning any land to be divided, partitioned or developed into more than one lot or parcel.

Subdivision. The division, partition, or development of land, whether by deed, metes and bounds description, devices, intestacy, lease, map, plat or other recorded instrument.

Utilities. Distribution of service connection facilities and appurtenances thereto for gas; electricity; water; sanitary sewer; stormwater management; and communications.

Utility standards. Applicable regulations adopted by Virginia regulatory agencies

VDOT: Virginia Department of Transportation.
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 95-5, 5-24-95)

Sec. 16-4. Application of chapter.

This chapter and all regulations adopted hereunder shall apply to all subdivision of land located within the unincorporated areas of the county.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-5. Agent--Appointment and duties.

- (a) The agent shall administer this chapter. In so acting, the agent shall be considered the agent of the board, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the board.
- (b) The agent shall perform such duties regarding subdivisions and subdividing as are set forth in this chapter or in applicable sections of the Code of Virginia.
- (c) In the performance of the duties, the agent may call for opinions or decisions, either verbal or written, from other departments, agencies, or other government organizations in considering details of any submitted plat. This authority by the agent shall have particular reference to the highway engineer, health official, fire chief, public works director, and county attorney.
- (d) In addition to the regulations herein contained for the platting of the subdivisions, the agent may, from time to time, establish procedures deemed necessary for the administration of this chapter.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-6. Interpretation, conflict and severability.

- (a) In interpretation and application, the requirements of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare.
- (b) This chapter is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, statute, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other provision of county ordinances or regulations or other provisions of law, the provisions which are more restrictive or impose higher standards shall control, unless the intent is clearly otherwise.
- (c) This chapter is not intended to abrogate any legally enforceable easement, covenant or any other private agreement or restriction; provided that, where the provisions of this chapter are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this chapter shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards, than the requirements of this chapter, and such private provisions are not inconsistent with this chapter or determinations thereunder, then such private provisions shall be operative and supplemental to this chapter and determinations made thereunder; provided, that no restrictive covenants shall be enforced by the county.
- (d) Should any section or provision of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, nor the validity of any other section or provision of the ordinance other than the one so declared invalid.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-7. Chapter does not affect prior actions, rights, etc.

This chapter shall not be construed as abating any legal action now pending under, or by virtue of, the prior existing subdivision ordinance or regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person or as waiving any right of the county under any

section or provision existing at the time of adoption of the ordinance from which this chapter is derived, or as vacating or annulling any rights obtained by any person by lawful action of the county, except as shall be expressly provided for in this chapter. (P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-8. Compliance.

- (a) Wherever any subdivision of land is proposed the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in this chapter.
- (b) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this chapter and with the provisions of Article 6, Chapter 22, Title 15.2 (Sec. 15.2-2240 et seq.) of the Code of Virginia, as amended.
- (c) No deed involving a division of land and no subdivision plat shall be recorded unless and until it has been submitted to and approved by the agent in accordance with the requirements of this chapter.
- (d) No person shall offer for sale, sell or transfer any land of a subdivision, before such plat has been duly approved and recorded as provided herein, unless such land is a lot of record created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred for the passage of title as between the parties to the instrument. Divisions of land under Section 16-9(b) may be offered for sale prior to approval of the division but may not be sold or transferred until deed is approved by the agent as required by this Code.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 95-6, 5-24-95)

Sec. 16-9. Exceptions to subdivision.

The agent may permit divisions of land into two (2) parcels as set forth below when the resultant parcels conform to the Chapter 17 (Zoning Ordinance) requirements of the zoning district in which the parcels are located and when such divisions do not circumvent the intent of this chapter as stated in section 16-2. Minimum lot size in agriculturally zoned districts shall be one (1) acre except in A-2 if the property is served by public sewer, the minimum lot size shall be 20,000 square feet, and the newly created parcel shall be connected to the public sewer. When the proposed division would create a residual parcel of less than five (5) acres, the residual parcel shall meet the access, health and safety standards as set out in this chapter. No divisions of land shall be approved that would make a lot nonconforming or which would make an already nonconforming lot more nonconforming.

(a) Adjoining transfers or lot consolidations.

(1) The agent may permit a division conveying a portion of land to an immediately adjoining property owner or consolidating contiguous parcels owned by the same property owner provided the following requirements are met.

(A) A proposed adjoining transfer or lot consolidation located within an approved subdivision as described in Section 16-48 must meet the requirements of that section.

(B) The deed submitted to the agent for approval shall contain language stating:

1. "This conveyance is an adjoining land transfer. The recordation of this deed in accordance with the subdivision regulations of Rockingham County shall operate to vacate the common property line shared by the tract to be conveyed and the tract to which it is an adjoining transfer."

(C) The plat accompanying the deed submitted to the agent shall include the following:

1. The plat shall contain language stating "this conveyance is an adjoining transfer and the combined parcels shall be treated as one parcel for zoning and subdivision purposes.
2. The property line to be vacated shall be indicated on the plat by a broken line, identified with the words "property line hereby vacated" printed beside the vacated line.
3. The plat shall also show any dwellings on the parcel being conveyed by the adjoining transfer and the dwellings remaining on the parent tract.

(b) *Non-family divisions:*

In the agriculturally zoned districts, the agent may permit one division of a parcel into two (2) parcels with the following stipulations:

(1) Prime Agricultural (A-1) District

- (a) On parcels of land that are greater than 40 acres, one non-family division shall be permitted every five (5) years except as permitted under Section 16-9(b)(1)(h) in accordance with Section 16-9(b)(1)(c). However, either the parent parcel or the newly created parcel shall be at least 40 acres and shall not be reduced below 40 acres. If the newly created parcel is 40 acres, and the parent tract becomes less than 40 acres, there shall be no further non-family division rights of the parent tract.
- (b) On parcels of 40 acres or less created after (enter effective date of ordinance), there shall be no non-family divisions permitted except as permitted under Section 16-9(b)(1)(h). The deed shall contain language stating that no further non-family divisions shall be permitted.
- (c) A special use permit for a residence has been approved on any parcel that is not improved with a residence. This would include either the newly divided parcel or the parent tract.
- (d) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting the requirements of either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the Agent in writing of sight distance approval in order for the division to be approved.

(A) Fifty (50) foot right-of-way meeting the following standards.

- (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.

- (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county or VDOT to take the right-of way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.
 - (2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
 - (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.
- (B) Twenty (20) foot right-of-way meeting the following standards.
- (1) There shall be no more than two (2) parcels per right-of-way.
 - (2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of Section 16-9(b)(1)(d)(A).
 - (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.
- (e) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health

official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (f) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (g) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (h) There shall be no grantor to self divisions permitted under this section, provided, however, that on any parcel of land of fifteen (15) acres or more on which there is a farming operation on which a dwelling or manufactured home exists as of (enter effective date of ordinance) and is occupied by the owner of the farming operation, a one time only grantor to self division of the existing dwelling and up to five (5) acres from the larger parcel shall be permitted. The residual and resulting parcels must meet all other requirements of this section.

(2) General Agricultural (A-2) District

- (a) Any parcels of 6 acres or less created after (enter effective date of ordinance) shall have no further non-family division rights. The deed shall contain language stating that no further non-family divisions shall be permitted.
- (b) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last three (3) years.
- (c) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the agent in writing of sight distance approval in order for the division to be approved.

- (A) Fifty (50) foot right-of-way meeting the following standards.
- (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
 - (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county or VDOT to take the right-of way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.
 - (2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
 - (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.
- (B) Twenty (20) foot right-of-way meeting the following standards.
- (1) There shall be no more than two (2) parcels per right-of-way.
 - (2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of Section 16-9(b)(2)(d)(A).
 - (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed

approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until the agent receives verification from VDOT that the entrance work has been completed.

- (d) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100%) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.
- (e) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (f) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (g) There shall be no grantor to self divisions permitted under this section, provided, however, that on any parcel of land of fifteen (15) acres or more on which there is a farming operation and on which a dwelling or manufactured home exists and is occupied by the owner of the farming operation, a one time only grantor to self division of the existing dwelling and up to five (5) acres from the larger tract shall be permitted. The residual and resulting parcels must meet all other requirements of this section.

All other requirements of this section shall be met.

(c) Family divisions.

In the agriculturally zoned districts, a single parcel of land may be divided for conveyance to an immediate family member, provided that the grantee has not previously received any land from an immediate family member under the provisions of this section 16-9(c). An immediate family member is a natural or legally defined child, grandchild, parent, grandparent, or sibling of the grantor. If the property owner is a limited liability company whose membership consists entirely of members of an

immediate family, the limited liability company may divide the lot or parcel for the purpose of sale or gift to its members in accordance with this subsection. There shall be no division approved under this paragraph (c) that is determined by the Agent to be an attempt to circumvent the intent of either Chapter 16 (subdivision), as stated in Section 16-2, or Chapter 17 (zoning), including but not limited to any attempt by the grantor to further develop land approved under this paragraph for the benefit of any party other than the grantee or profit motivated divisions for short-term investment purposes. Divisions of land made under the provisions of this paragraph (c) shall be subject to the following requirements:

- (1) Divisions under this section 16-9(c) shall not be subject to the waiting periods set forth in section 16-9(b) of this code;
- (2) In the A-1 District any parcel of forty (40) acres or less created under this section 16-9(c) after (enter effective date of ordinance) shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (3) In the A-2 District any parcel of six (6) acres or less created under this section 16-9(c) after (enter effective date of ordinance) shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (4) Each deed submitted to the agent for approval shall be accompanied by a notarized affidavit stating that the grantee has not received any prior conveyance of land under the provisions of this section 16-9(c).
- (5) The deed and plat submitted to the agent for approval shall contain language stating that the conveyance is a family division and specifying the relationship between the grantor and grantee. The deed shall also contain language stating that the land being conveyed may not be reconveyed for a period of three (3) years, from the date on which the agent approves the division. Notwithstanding provisions to the contrary, this subparagraph 16-9(c)(5) shall not prohibit a foreclosure or judicial sale, or an encumbrance with a deed of trust or mortgage, or a sale and transfer of such parcel in case of a foreclosure under a deed of trust or mortgage.
- (6) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state maintained road, a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the Agent in writing of sight distance approval in order for the division to be approved.

A. Fifty (50) foot right-of-way meeting the following standards.

- (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
 - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
 - (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the street shall meet minimum fire protection requirements as promulgated by the Fire Chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of

the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of-way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county of VDOT to take the right-of-way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.

- (2) No right-of-way grade shall exceed a ten (10%) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
 - (3) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty (50) foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.
- (B) Twenty (20) foot right-of-way meeting the following standards.
- (1) Divisions of land under this Section 16-9(c)(6)(B) shall be exempt from the number of parcels on a right-of-way and any division under this section that increases the number of parcels to more than two shall not be required to improve the right-of-way to meet the requirements of Section 16-9(c)(6)(A).
 - (2) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty (20) foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvements required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the County until such time as the agent receives verification from VDOT that the entrance work has been completed.
 - (7) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100%) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one

hundred (100%) septic reserve requirements for divisions, that residence shall also be required to have one hundred (100%) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the requested division. Such approval shall not be required when (a) the proposed parcel will be served by a community sewerage system with adequate capacity; or (b) a parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (8) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
 - (9) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (d) Transfers by inheritance or court order.
- (1) The division of land by the Circuit Court of Rockingham County in a decree of divorce or an order in a partition suit in which each of the parties is an owner by inheritance, or a partitioning of land by parties each of whom is an owner by inheritance, shall be exempt from the provisions of this chapter; provided, however, that each of the resulting parcels front on a state maintained road or has adequate access to a state maintained road over a recorded right-of-way. A copy of such order, a copy of the probated will conveying such property, or a copy of a duly filed list of heirs shall be submitted to the agent.
 - (2) Notwithstanding the provisions of subparagraph (d)(1) above, requiring each owner to be an owner by inheritance, if one (1) or more of the parties to the partition suit, or one (1) or more of the parties to the partition deed, acquired his interest by conveyance, such ownership shall not impair the exemption provided under said subparagraph, provided such conveyance does not increase the number of owners seeking a partition beyond the number of owners created by inheritance.
 - (3) For the purpose of this subsection, "inheritance" means transfer of property by will or intestate succession.
- (e) *Reserved.*
- (f) *Divisions for deeds of trust.* The agent may permit a division of land conveying a parcel in trust for the sole purpose of securing an indebtedness to a regulated commercial lender. Only one (1) such division of any parcel identified by a separate tax map number shall be permitted at any time. In the event of default, the holder of the note secured by the deed of trust shall have authority to enforce the lien of such deed of trust in any manner permitted by the laws of the Commonwealth of Virginia.
- (1) Prior to recordation, the plat shall be submitted for approval to the subdivision agent, and such approval shall indicate that the execution and delivery of the deed of trust does not violate any requirements of the county's zoning ordinance. In its title, the plat shall state that the conveyance is for deed of trust purposes.

- (2) The landowner shall obtain a separate tax map designation and tax billing from the commissioner of the revenue and notify the commissioner of the revenue and the subdivision agent upon the satisfaction and release of any such deed of trust. The tax map designation for a division under this paragraph (f) shall be the tax map designation of the parent tract with the suffix "dt" added to it.
- (3) A division of land approved under this paragraph (f) shall not constitute a subdivision of land until there is a conveyance by or to the holder of the note or its trustees and only upon default.
- (4) Any such conveyance by or to the holder of the note or its trustee shall be reported, before recordation, to the subdivision agent; and no subsequent division of the land so conveyed or of the parent tract shall be permitted under paragraph (b) of this section 16-9 until the waiting period of five (5) years has been satisfied.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-87, 8-12-87; P.C. Ord. No. 15-90, 11-14-90; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 10-92, 6-24-92; P.C. Ord. No. 19-92, 10-28-92; P.C. Ord. No. 27-92, 12-16-92; P.C. Ord. No. 28-92, §§ 1, 2, 4, 12-16-92; P.C. Ord. No. 13-93, 11-10-93; P.C. Ord. No. 95-7, 5-24-95; P.C. Ord. No. 95-8, 5-24-95; P.C. Ord. No. 96-15, 9-25-96; P.C. Ord. No. 97-6, 4-23-97; P.C. Ord. No. 97-12, 7-23-97; P.C. Ord. No. 97-13, 7-23-97; P.C. Ord. No. 98-11, 9-23-98)

Sec. 16-9.1. Same--Deed and plat required.

A deed accurately describing the parcel to be divided, and with each deed the original and one copy of a plat prepared by a certified land surveyor licensed by the Commonwealth of Virginia, showing a division of land shall be submitted for approval prior to recordation. The plat shall include, at a minimum, the following as to the divided parcel and as to the residual parcel if it is less than five (5) acres:

- (a) That the plat meets the standard for plats as adopted under §42.1-82 of the Virginia Public Records Act or any successor statute thereto;
- (b) In the first line of its title, in lettering that is at least as large and at least as heavy as any other lettering on the plat, that the resulting parcel is being divided from a larger tract;
- (c) The tax map identification number of each tract involved in the division and each adjoining parcel;
- (d) The current zoning;
- (e) A north arrow designated as true north;
- (f) The date of preparation;
- (g) If the division creates a residual parcel of less than five (5) acres, both parcels shall be surveyed and shown on the plat;
- (h) The plat shall also include a vicinity sketch map at a scale of one (1) inch equals two thousand (2,000) feet;
- (i) A statement of the floodplain designation shall be included with the 100-year floodplain boundary, including the flood-fringe and floodway, if applicable, being shown on the plat within the lot boundaries in the event any portion of parcel falls within the 100-year floodplain;
- (j) Identification of any grave, object or structure marking a place of human burial located on the tract or parcel of land to be divided;

- (k) The location and setbacks of all structures on the divided parcel as well as a statement that all structures on both parcels are in compliance with County setback laws with regard to the new property line;
- (l) The size and location of all accessory buildings shown on the plat; and
- (m) If there is an existing septic and drainfield on the parcel being divided, the date of the operation permit and location of the septic and drainfield shall be included as well as a statement of date of the septic operation permit on any residual parcel of less than five (5) acres.
- (n) Setback line at point where parcel first meets the minimum required setback width; and
- (o) Street name, state route number and road width shall be shown for any state-maintained road that is shown on the plat.
- (p) Any utility or other easements on the property and any rights-of-way crossing subject property that serve either this property or go to adjoining landowner's property line.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 28-92, § 3, 12-16-92; P.C. Ord. No. 8-93, 8-25-93)

Sec. 16-10. Variances.

When the subdivider can show that conforming with the provisions of these standards would cause unnecessary hardship, or where topographical or other conditions peculiar to the site make compliance impracticable, and if, in addition, the agent is of the opinion that a departure from any provisions of this chapter would not destroy the intent of its provisions, the agent shall submit the proposed variance in writing to the board, the county administrator, county attorney, highway engineer, health official, fire chief, public works director; and community development director and unless any of such entities oppose in writing such proposed variance within thirty (30) days of the date appearing on such notice, such variance may be granted.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-11. Amendments.

For the purpose of promoting the public health, safety, convenience and general welfare, the commission may, or at the request of the board shall, prepare and recommend amendments to this chapter. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance from which this chapter is derived; provided, that no such amendment shall be adopted by the board without referring the proposed amendment to the commission for recommendation, nor until sixty (60) days after such referral, if no recommendation is made by the commission.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 98-4, 5-27-98)

ARTICLE II. MINIMUM REQUIREMENTS

Sec. 16-12. Generally.

The provisions of this article prescribe the minimum requirements for the subdivision of land in the county. Such requirements may not be waived, except as specifically provided in this article.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-13. Subdivision name.

Subdivisions shall be named according to the established procedures set forth in the road/street and subdivision naming manual as amended.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 96-6, 3-13-96)

Sec. 16-14. Street names.

- (a) Streets shall be named according to the established procedures set forth in the road/street and subdivision naming manual as amended.
- (b) Temporary street identification signs shall be placed at each intersection by the developer prior to any construction beginning in the subdivision. The developer shall contact the agent when temporary signs have been erected. No building permits shall be issued within a subdivision prior to verification by the agent that the signs have been erected. Developer shall be responsible for keeping these signs in place until such time as permanent signs are erected.
- (c) Permanent signs conforming to standard county specifications shall be erected by the county at the developer's expense, and the developer shall pay the County for the cost of the signs prior to the Agent signing the final plat. If the cost of signs increases, and the funds paid by the Developer to the County are insufficient to cover the cost of the signs, the developer shall pay the additional funds prior to the bond being released by the County.

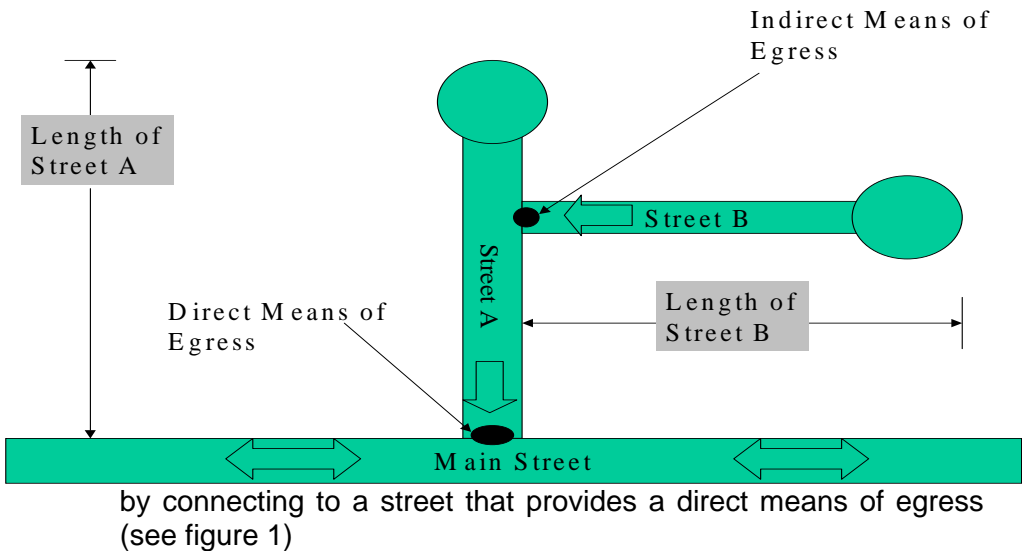
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 96-6, 3-13-96)

Sec. 16-15. Streets--General standards of design and maintenance guarantees.

- (a) The arrangement of streets in new subdivisions shall be interconnecting when feasible and make provision for the continuation of planned, existing or platted streets in adjoining areas. The street arrangement shall not cause any unnecessary hardship to owners of adjoining property where they plat their own land and seek to provide for convenient access to it. Proposed streets shall be extended by dedication to the boundary line of at least one adjoining property. Wherever possible, streets should intersect at right angles. On all hillside land, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the highway engineer.
- (b) Whenever a proposed subdivision contains or is adjacent to a limited access highway or street, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited access highway to expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.
- (c) Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the agent, upon approval by the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.
- (d) Except as provided for in the RR-1, R-4, R-5, MH-1 and PCD districts set forth in chapter 17 (zoning), all subdivision streets and roads shall be constructed in accordance with the VDOT road and bridge specification standards.
- (e) Dead-end streets shall be designed as follows:

- 1. Dead-end streets shall not exceed eight hundred (800) feet or be less than two hundred (200) feet, and shall meet the following requirements:
 - a) Dead-end streets shall terminate in an approved cul-de-sac with pavement radii of not less than forty-five (45) feet and a right-of-way radii of not less than sixty (60) feet.
 - b) The length shall be measured from the end of the cul-de-sac to the closest intersection, which provides a means of egress from the subdivision, either directly or indirectly (see figure 1)
 - c) Dead-end streets that provide direct means of egress shall do so

FIGURE 1



- 2. Lengths of greater than eight hundred (800) feet shall be allowed if the following conditions are met:
 - a) Dead-end streets with lengths of greater than eight hundred (800) feet shall require approval, prior to submission in writing, by the Fire Chief, VDOT, and Director of Public Works;
 - b) An easement from the turnaround to another street provides a looped water system or the system is otherwise looped; unless otherwise approved by the Director of Public Works.
 - c) The dead-end street is designed as a dual street with a landscaped median over its entire length, which divides the dead-end street into two (2) distinct and separate lanes. The construction of the lanes, right-of-way and median shall be constructed in accordance with VDOT standards. Median breaks shall be provided at every intersection and at other points at intervals of no more than three hundred (300) feet or as otherwise specified by the reviewing parties. Median breaks shall be designed to VDOT standards; and
 - d) Fire hydrants shall be placed as required by the Fire Chief.
 - e) In recognition of the additional fire protection requirements incorporated into commercial and industrial structures, the Director of Community Development, in consultation with the Fire Chief, may waive the median requirement for dead end streets in subdivisions located in business zoning. Subdivisions in industrial zoning are exempted from the requirements in 16-15(e)2.
 - (f) Dead-end alleys shall not be permitted.

- (g) Except as provided in the RR-1, R-4, R-5, MH-1 and PCD districts set forth in chapter 17 (zoning), there shall be no private streets platted in any subdivision, and every subdivided property shall be served from a publicly dedicated street, which shall be taken into the state system by VDOT. There shall be no reserve strips controlling access to streets.
- (h) New streets entering subdivisions shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. If sight distance cannot be met, VDOT shall notify the agent in writing, and the subdivision shall not be approved.
- (i) Grades on all streets shall not exceed a ten (10%) percent maximum unless an exception is approved by both VDOT and the Fire Chief due to terrain or other mitigating circumstances. Written approval from VDOT and the fire chief of such exception shall be submitted to agent prior to approval of the subdivision.
- (j) Minimum pavement width shall be 20 feet on shoulder and ditch typical section subdivision streets. Minimum pavement width for curb and gutter subdivision streets with projected traffic up to 400 vehicles per day shall be 34 feet. Minimum pavement width for curb and gutter streets with projected traffic greater than 400 vehicles per day shall be in accordance with VDOT Subdivision Street Requirements. Minimum right-of-way on all subdivision streets shall be 50 feet. Minimum right-of-way on street cul-de-sacs shall be 60 feet radius with 50 feet radius paved.
- (k) A ten (10) foot stormwater management and utility easement shall be created on all lot lines of all subdivision lots where practical. All roadway drainage shall be conveyed in a typical roadway ditch parallel to the roadway in both cut and fill sections. To prevent pooling of water in the pavement, roadways shall have a minimum grade to their side of not less than 0.5 percent. Drainage shall be provided to protect a primary road where it intersects with a secondary road.
- (l) No streets shall be constructed with a curvature radius of less than 100 feet measured at the center line.
- (m) Improved gravel shoulder width shall be a minimum of four (4) feet on each side of the street. On streets with a projected average daily traffic volume in excess of 1000 vehicles per day, shoulders shall be constructed to the same specifications as the street.
- (n) Fire department access shall be provided and maintained to all structures undergoing construction, alteration or demolition. Fire department access roadways shall be of an approved surface material capable of providing emergency vehicles access and support at all times, and shall be a minimum of 20 feet in unobstructed width. The access roadway shall provide a minimum turning radius of 50 feet and a minimum vertical clearance of 13-1/2 feet. No permits shall be issued until such time as the fire chief has notified the agent in writing that such access has been provided.
- (o) Application to have a street accepted into the state secondary highway system may be completed by the developer and submitted to the county and VDOT within three (3) months after the county has issued a certificate of occupancy for the third structure addressed on said street and shall be completed and submitted to the county and VDOT within three months after there are residences on seventy-five (75%) percent of the lots in the subdivision or in a section of the subdivision when developed in sections. At that time the street shall meet VDOT secondary road standards.

- (p) In the event that Rockingham County has accepted the dedication of a street for public use by approval of a recorded subdivision plat, and such road, upon its completion, is not accepted into the VDOT secondary highway system, prior to the release of the improvements bond, the subdivider or developer shall be required to furnish the county with a maintenance and indemnifying bond, either by cash escrow or letter of credit, with surety satisfactory to the Agent in an amount sufficient for and conditioned upon, the maintenance of such road until such time as it is accepted into the state secondary highway system. As a minimum the amount of the maintenance and indemnifying bond shall be twenty-five (25%) percent of the amount of the original assurance provided to the county at the time the final plat was approved. The amount of the maintenance bond shall be determined by the agent, Public Works Director and Highway Engineer. In any event when the third certificate of occupancy for a structure addressed on a street is issued, the developer must comply with Section 16-15(o) of this chapter. If it is determined by the county and VDOT that the developer has not complied with these requirements, the county may call the maintenance and indemnifying bond and use the proceeds therefrom to have the streets brought up to standards to be taken into the state secondary highway system and shall withhold any building permits or certificates of occupancy until streets are accepted into VDOT's secondary highway system. If for any reason the funds held by the county to bring the road up to state standards are not adequate for completion of the work, the developer shall be responsible for any cost over and above the amount of funds held by the county.
- (q) For the purpose of this chapter, "maintenance of the road" shall be deemed to mean maintenance of the streets, curb, gutter, ditches, stormwater management facilities, utilities, street signs, or other street improvements, including the correction of defects or damages, so as to keep such road open for public usage.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 98-3, 5-27-98)

Sec. 16-16. Monuments.

- (a) Upon completion of subdivision streets, utilities and other improvements, the subdivider shall make certain that all monuments and street signs required by the agent are clearly visible for inspection and use. Such monuments and street signs shall be inspected and approved by the agent before any improvements are accepted by the county.
- (b) Permanent monuments shall be placed in the ground at all corners and zangle points in the outer lines of the subdivision and at all points of angles and curvature in the right-of-way lines of all streets and all lot corners within the subdivision. At designated points in the outer lines of the subdivision and at a minimum of at least two (2) points in each block, such monuments shall be stone or precast concrete, not less than four (4) inches square or four (4) inches in diameter, and at least twenty-four (24) inches long. In all other locations such monuments shall be iron or steel pipe not less than one-half (1/2) inch nor more than (1) inch in diameter and at least eighteen (18) inches long. The top of all stone and concrete monuments shall be set not less than one (1) inch nor more than four (4) inches above the finished grade at their respective locations. When rock is encountered a hole shall be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half (1/2) inch in diameter, the top of which shall be flush with the finished grade line.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-17. Sanitary sewer and water installations and connections.

- (a) No subdivision shall be approved where individual water or septic tanks are to be used until written approval has been secured from the health official. In order to grant approval, the health official, or his agent, shall

determine the suitability of soil for the use of septic systems with subsurface disposal, that satisfactory service of the system is reasonably anticipated and that a reserve drain field capable of meeting one hundred (100) percent of the septic requirements of the development is also provided for the parcel. The area set aside for septic drainfield use and the reserve area shall be shown on the plat, and there shall be a statement on the plat that the drainfield and reserve area shall remain open and available for use as a septic drainfield. The health official shall require percolation tests or other methods of soil evaluation in determining the suitability of the soil for subsurface disposal. Percolation tests or other soil evaluation shall be the responsibility of the subdivider.

- (b) If a public water or sewerage system is made available to the subdivision by the developer, the service shall be extended to all lots within said subdivision. If public sewer is available to the property, the subdivision shall be served by public sewer. Prior to issuance of any building permit, water service shall be available, and prior to certificate of occupancy being issued, the structure shall be connected to water and sewer.
- (c) Nothing in this article shall prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities; provided, that any such installation must meet the applicable requirements of all state or local regulatory agencies except as required by subsection (b) above.
- (d) No divisions of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as a septic drainfield permit with one hundred (100) percent reserve area has been approved by the health official, and said drainfield installed to serve the parent tract. Prior to approval of the new parcel, a copy of the septic operation permit shall be submitted to the Agent.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 94-11, 5-25-94; P.C. Ord. No. 97-16, 8-29-97)

Sec. 16-18. Flood control.

- (a) A statement of the floodplain designation shall be included on the preliminary and final plats. In addition, the 100-year floodplain boundary, including the flood-fringe and floodway, if available, shall be shown on the preliminary and final plats. Land subject to flooding may be subdivided provided each lot shall have a building area conforming to the requirements of this code that is above the 100-year flood elevation.
- (b) Elevations and flood profiles may be required by the agent for land that is deemed by the agent to be in close proximity to or within the floodplain.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-19. Payment of pro rata share of cost of off-site water, sewer and drainage facilities.

Each subdivider of land subject to the provisions of this chapter may be required to pay a pro rata share of the cost of providing off-site water, sewer and stormwater management facilities which are necessitated, in whole or in part, by the proposed improvement or construction on the land to be subdivided.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-20. Fire protection.

Where adequate water is available, the installation of fire hydrants by the subdivider or developer in a subdivision, shall be required as necessary to provide adequate fire protection. At a minimum a fire hydrant shall be installed at each

intersection. If the distance between hydrants located at the intersections exceeds 600 feet, intermediate hydrants(s) shall be provided so that the distance between hydrants does not exceed 600 feet. The agent and fire chief shall approve the location of all hydrants.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-21. As-built plan for utilities and stormwater management.

Upon completion of utilities in a subdivision, there shall be submitted to the agent two (2) copies of a reproducible as-built plan, prepared by a certified land surveyor or professional registered engineer licensed to practice in the Commonwealth of Virginia, showing stormwater management facilities, sanitary sewers, water lines with appurtenances, and other underground utilities with a certification that all such stormwater management facilities and utilities were constructed in accordance with approved plans and specifications and applicable laws and regulations.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-22. Reservation of land for public use.

- (a) No plat of a subdivision showing any public easement or right-of-way within a subdivision shall be recorded, nor shall any such easement or right-of-way otherwise be accepted for dedication to public use, until such proposed plat or other dedication shall first have been approved by the agent, and evidence of such approval shown on the instrument to be recorded. Such approval shall not be given by the agent until any such easement or right-of-way complies with all requirements of this chapter.
- (b) All public utility and stormwater management easements outside the right-of-way of public streets are to be shown on final plats. Where it is necessary to place public utilities within the right-of-way shown for public or restricted street purposes, approval shall be obtained from the agent for such installation. Utility installations to be constructed within public streets or rights-of-way shall be coordinated with the street construction plans and profiles as approved by the highway engineer.
- (c) In subdividing property, consideration shall be given to suitable sites for parks, schools and other areas of public use as contained in the comprehensive plan. Such recommendations for parks, schools or other public land shall be indicated on the preliminary plat in order that it may be determined if, when, and in what manner such areas will be dedicated to, reserved for, or acquired by the board for that use. This provision shall not be construed to preclude the dedication of property to public use not included in the comprehensive plan, provided such dedication is submitted to and approved by the board in accordance with section 15.2-2232 of the Code of Virginia, as amended.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-23. Open space for recreational purposes.

The subdivider is encouraged to provide common open space for recreational purposes in residential subdivisions beyond open space requirements under chapter 17 (zoning).

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-24. Soils study.

The agent may require a subdivider to have a special soils study prepared where poor or unusual soils conditions exist.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-25. Erosion and Sediment Control and Stormwater Management.

Plans and specifications for the control of erosion and sedimentation and stormwater management, including adequate bonding or other assurance, shall be submitted to and approved by the county erosion and sediment control administrator in accordance with the requirements of this code, before any construction or building permits shall be issued for such work in a subdivision.

(P.C. Ord. No. 5-87, (part), 4-22-87)

ARTICLE III. PLATTING

DIVISION I. GENERALLY

Sec. 16-26. Land subject to joint control.

When the land involved in proposed subdivision lies partly within an area subject to the joint control of more than one (1) political jurisdiction, the plat shall be submitted to the commission or other designated agent of each political subdivision in which the tract of land is located.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-27. Fees.

There shall be a charge for the examination and approval or disapproval of every plat, deed exception and variance submitted to the county. Such fee shall be in the form of cash or a check payable to the "County of Rockingham, Virginia" and shall be deposited at the time of the filing of a plat with the agent according to the schedule of fees established by the board of supervisors.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-93, 8-25-93)

Sec. 16-28. Changes in plats.

No changes, erasure or revision shall be made on any preliminary or final plat, or on accompanying data sheets, after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent and unless such changes shall comply with these subdivision regulations in every respect.

(P.C. Ord. No. 5-87, (part), 4-22-87)

DIVISION 2. PRELIMINARY PLAT

Sec. 16-29. Generally.

- (a) Before the preparation of a preliminary plat, a subdivider is encouraged to confer with the agent relative to the regulations contained in this chapter, the comprehensive plan, the zoning ordinance and other applicable ordinances.
- (b) Except as provided in Section 16-37, each subdivider shall submit to the agent a preliminary subdivision plat which conforms to this chapter and adopted policies and regulations.
- (c) The subdivider shall submit eleven (11) copies of the preliminary plat. One (1) copy, with the action of the agent noted thereon, shall be returned

to the subdivider. The subdivider may submit one (1) copy of preliminary plat in digital form.
(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-30. Method of preparation; scale; contents.

Preliminary plats of a subdivision shall be prepared in accordance with the regulations of this chapter. The plat shall be drawn to a scale of one (1) inch equals one hundred (100) feet, unless otherwise approved by the agent, and may be on one (1) or more sheets as necessary to show the following information:

- (a) That the plat meets the standard for plats as adopted under subsection 42.1-82 of the Virginia Public Records Act or any successor statute thereto;
- (b) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale;
- (c) Location of proposed subdivision by an inset map, at a scale of not less than one (1) inch equals two thousand (2,000) feet, indicating thereon nearby towns and cities, subdivisions, highways and roads and their names and numbers, and other distinguishing landmarks;
- (d) The name or number of the section if a part of a larger tract;
- (e) A boundary survey or existing survey of record, total acreage, acreage of subdivided area, number and approximate area of all building sites, computations showing conformance with the density, open space and coverage requirements of the zoning ordinance, existing buildings within the boundaries of the subdivision, names of owners and their property lines within the boundaries of the proposed subdivision and adjoining such subdivision;
- (f) All existing, platted and proposed streets and easements, their names, route numbers and approximate widths; public areas and parking spaces; existing or proposed utilities, and other pertinent data, including a traffic analysis and categorization plan, where required by the highway engineer.
- (g) A topographic map, compiled by either field or photogrammetric methods, with a contour interval of not greater than five (5) feet, unless a larger interval is approved by the agent, showing all the area covered by the subdivision properly related to coast and geodetic survey data showing the boundary lines of the tract to be subdivided;
- (h) All parcels of land intended to be dedicated or reserved for public use or to be reserved in the deed for the common use of property owners in the subdivision;
- (i) Areas shown in the comprehensive plan of the county as proposed sites for schools, parks, or other uses including floodplains which are located wholly, or in part, within the lands being subdivided;
- (j) Plans indicating the provisions for all utilities, including, but not limited to, the stormwater management, water supply, sewage disposal, and easements for utilities. Plans for any bridges or culverts that may be required shall be submitted;
- (k) The tax map number, zoning classifications and proposed use for the area being subdivided and for adjoining properties;
- (l) Proposed sedimentation and erosion control measures;
- (m) The number of lots and dimensions and square footage of each lot;

- (n) Floodplain designation with the 100-year floodplain boundary, flood fringe and floodway, if available, shown on each lot that lies within the 100-year floodplain;
- (o) Identification of any grave, object or structure marking a place of burial located on the tract or parcel of land to be divided;
- (p) Location and setbacks of any structures on the property being subdivided;
- (q) Location of all existing and proposed fire hydrants;
- (r) Minimum setback line and setback line where minimum required width of property is first located; and
- (s) Any easements along lot lines shall be shown on the affected lots with type of easement and width of easement designated including utility easements, and stormwater management easements and facilities, as well as any other easements on the property.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-31. Review and decisions.

- (a) Upon receiving the preliminary plat, the agent shall transmit a copy of said plat to each appropriate body or agency for review. Any agency making such a review shall complete its review within forty-five (45) days after receipt of such preliminary plat. If such agency does not approve the preliminary plat, it shall set forth in writing the reasons for such denial and shall state what corrections or modifications would permit approval of the preliminary plat by such agency.
- (b) Upon receipt of the approvals from all agencies, the agent shall act upon the preliminary plat within forty-five (45) days. If the agent does not approve the preliminary plat, he shall set forth in writing the reason for such denial and shall state what corrections or modifications will permit approval by the agent. When approval from other agencies is required on preliminary plats, decisions by the agent shall be completed within ninety (90) days of submission to the agent.
- (c) If approval from other agencies is not required, the agent shall complete action on any preliminary plat within sixty (60) days of submission to such agent. However, the agent shall not be required to approve a preliminary plat in less than sixty (60) days from the date of its original submission to the agent.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-32. Period of validity of approval; approval does not constitute acceptance of plat for recordation.

Approval of a preliminary plat under this article shall be valid for a period of twelve (12) months from the date thereof, but such plat shall not be recorded. The period of validity of a preliminary plat may be extended by the agent for an additional six (6) months provided the request for extension is submitted prior to the expiration of the original twelve (12) month period; and provided, further, that only one (1) extension may be granted. After the approval has become invalid, a new submission and review shall be required and all resubmitted preliminary plats shall conform to the policies and standards in effect on the date of such resubmission.

(P.C. Ord. No. 5-87, (part), 4-22-87)

DIVISION 3. CONSTRUCTION PLAN

Sec. 16-33. Generally.

After receiving approval of the preliminary subdivision plat and within the period of approval of such plat, a subdivider shall submit four (4) sets of construction plans to the agent and three (3) sets of construction plans to VDOT showing the specific location and design of improvements to be made in accordance with the provisions of this chapter. A subdivider shall also submit to VDOT two (2) sets of drainage calculations and two (2) copies of VDOT Staunton District Subdivision checklist. Such plans shall be submitted prior to, or concurrently with, the final plat submitted pursuant to Article III, Division 4 of this chapter.
(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-34. By whom prepared.

Construction plans for subdivision development shall be prepared and certified by a registered professional engineer or certified land surveyor licensed to practice in the Commonwealth of Virginia.
(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-35. Construction standards.

All construction plans submitted shall conform to street standards, utility standards, erosion and sediment control standards and stormwater management standards, as set forth in this chapter and in Chapter 6B of the Rockingham County Code, and all other state, federal, and local standards.
(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-36. Approval.

A construction plan submitted in compliance with this chapter shall be considered and acted upon by the agent prior to, or concurrently with, the final subdivision plat. The approval of the construction plan and specifications shall be null and void if the final subdivision plat is not recorded with the clerk within the allowable period for final plat recordation.
(P.C. Ord. No. 5-87, (part), 4-22-87)

DIVISION 4. FINAL PLAT

Sec. 16-37. Generally.

(a) Each subdivider shall, after receiving approval of his preliminary subdivision plat, submit to the agent a final subdivision plat which conforms to this article and adopted policies and regulations. In the following cases, a final plat may be submitted and no preliminary plat shall be required:

- (1) The adjustment or rearrangement of property lines where no additional parcels are created; or
- (2) The creation of three (3) or fewer lots, all of which will have proper frontage and legal access on an existing state maintained road, and where no improvements are proposed or required, may be approved by the agent, provided the subdivision plat conforms with the minimum requirements of this chapter and with the policies and standards of VDOT's Subdivision Street Requirements.

(b) A subdivider shall file an original transparency of scale true material and eleven (11) copies of the final plat, including the supportive data herein, with the agent. (P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-38. By whom prepared.

Final subdivision plats shall be prepared by a certified land surveyor or registered professional engineer, licensed to practice in the Commonwealth of Virginia. (P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-39. Method of preparation; scale; contents.

The plat shall be drawn to the scale of one (1) inch equals one hundred (100) feet, unless otherwise approved by the agent, and the sheet size shall not exceed eight and one-half (8-1/2) inches by fourteen (14) inches with at least a one-quarter (1/4) inch border on all sides. More than one (1) sheet may be used; and if shown on more than one (1) sheet, match lines shall clearly indicate where the multiple sheets join. The final plat shall adhere to the Virginia Public Records Act under subsection 42.1-82 of the State Code or any successor statute thereto and, in addition to the requirements of this chapter for a preliminary plat, shall include the following:

- (a) The boundary lines of the area being subdivided shall be determined by an accurate field survey with bearings shown in degrees, minutes and seconds to the nearest ten (10) seconds and dimensions to be shown in feet to the nearest hundredth of a foot to the accuracy of one (1) in ten thousand (10,000). Total acres in each proposed use plus one hundred year floodplain delineation shall be shown. The location and material of permanent reference monuments shall be shown. A definite bearing and distance tie shown between not less than two (2) permanent monuments on the exterior boundary of the subdivision and further tie to existing street intersection where possible and reasonably convenient.
- (b) Streets shall be named but shall not duplicate existing or platted street names unless the new street is a continuation of an existing or platted street. All dimensions both linear and angular for location of lots, streets, alleys, public easements, and private easements shall be expressed in feet to the hundredths of a foot, and all angular measurements shall be expressed by bearings or angles expressed to the nearest ten (10) seconds. All curves shall be defined by their radius, central angle, tangent length, chord bearings and chord and arc lengths. Such curve data shall be expressed for all curves in a tabulated form and numbered to correspond with the curve shown on the plat.
- (c) Lot numbers and block identification.
- (d) Location of all minimum building set-back lines specified in chapter 17 (zoning) of this code, with the area, in square feet or acres, of lots indicated for each individual parcel.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-40. Required certificates.

All of the following signed certificates are required before a plat may be recorded with the clerk's office. The agent shall not sign the plat until all other signatures are obtained.

- (a) The surveyor or engineer who prepares a final subdivision plat shall endorse upon such plat a signed certificate setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument of the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat.

Surveyor's certificate.

I hereby certify that to the best of my knowledge and belief, all of the requirements of the board of supervisors and ordinances of the County of Rockingham, Virginia, regarding the platting of subdivisions within the county, have been complied with.

Given under my hand this _____ date of _____, 20_____

State Certified Engineer (or Land Surveyor)

- (b) Every final subdivision plat, or deed of dedication to which the plat is attached, shall contain, in addition to the professional engineer's or the surveyor's certificate required by this chapter, a statement as follows:

Owner's consent and dedication.

Know all men by these presents, that the subdivision of land as shown on this plat, containing _____ acres, more or less, and designated as _____ Subdivision, situated in _____ District in the County of Rockingham, Virginia, is with the free consent and in accordance with the desires of the undersigned owners thereof; that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned, under date of _____, 20_____ and recorded in the Clerk's Office of Rockingham County, in Deed Book _____ Page _____. The said _____ acres of land hereby subdivided having been conveyed to _____ by _____ by deed dated _____, 19_____ and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia in Deed Book _____ Page _____.

Given under our hands this _____ day of _____, 20_____.

_____(SE
AL)

_____(SE
AL)

_____(SE
AL)

- (c) Signature panels shall be provided for the highway engineer, for the health official and/or agent of a community water or sewer system when such a system is to serve the subdivision, and for the agent of the board.

Certificate of approval.

This subdivision known as _____ Subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

(date) (Signed) _____
Highway Engineer

(date) (Signed) _____
Health Officer and/or Agent
of a Community Water and
Sewer System

(date) (Signed) _____
Agent of the Board

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 2-91, 3-27-91)

Sec. 16-41. Decisions by agent.

- (a) A decision on the final plat shall be rendered by the agent within sixty (60) days after such plat is submitted to the agent.
- (b) Upon notification from the agent that the final plat is ready for signature, the subdivider shall submit to the required agencies the original and four (4) copies for signatures by the required agencies. Said original and copies shall then be submitted to the agent for his approval.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-42. Recordation.

- (a) Upon the agent determining a final plat meets the requirements of this chapter, the developer shall provide assurance to the agent, in accordance with the bonding policy of the county, that all improvements contained on the final plat have been, or will be constructed at the cost of the developer. Such assurance may be by certification that the improvements have been completed and payment has been made to the person constructing such improvements; or, by providing a certified check, cash escrow, bond with approved surety, or a bank letter of credit in an amount sufficient for and conditioned upon the construction of such improvements and in accordance with the bonding policy of the county. Upon provision of such assurance that improvements will be constructed, the original signed final plats shall be filed in the office of the clerk of the circuit court. No such plat of any subdivision shall be recorded by said clerk unless and until it shall have been submitted to and approved by the agent.
- (b) If the developer records a final plat, which may be a section of a subdivision as shown on an approved preliminary plat, and furnishes to the agent a certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of the facilities within said section to be dedicated for public use and maintenance by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining section shown on the preliminary plat for a period of five (5) years from the recordation date of the first section, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.
- (c) Upon recordation of a final subdivision plat, the developer shall forward a copy of the original plat with the recordation information on it to the agent. No permits shall be issued until the agent has received a copy of the recorded plat.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 97-5, 4-23-97)

Sec. 16-43. Period of validity of approval.

Approval of the final plat by the agent shall be void unless the plat is recorded within one (1) year after approval.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 94-8, 5-25-94)

ARTICLE IV. VACATION OF PLATS OR BOUNDARY LINES

Sec. 16-44. Before sale of lot.

Any recorded subdivision plat, or part thereof, may be vacated, with the consent of the agent, by the owners, proprietors and trustees, if any, who signed the statement required by section 16-40(b), at any time before the sale of any lot therein, by a written instrument, declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the clerk's office. The execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and divest all public rights in, and to reinvest such owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-45. After sale of lot--Methods.

In cases where any lot in a subdivision has been sold, the subdivision plat, or part thereof, may be vacated according to either of the following methods:

- (a) By instrument in writing agreeing to such vacation, signed by all the owners of lots shown on the plat and also signed on behalf of the board by the county administrator. The word "owners," as used herein, shall not include lien creditors, except those whose debts are secured by a recorded deed of trust or mortgage, and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the officer of the clerk;
- (b) By ordinance of the board, on motion of one (1) of its members or on application of any interested persons. Such ordinance shall not be adopted until notice has been given as required by the Code of Virginia, as amended.

Such notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of said board at which the adoption of the ordinance will be voted upon. Any person may appear at such meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed, within thirty (30) days, with the Circuit Court of the county. Upon such appeal, the court may nullify the ordinance, if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided, or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the officer of the clerk.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-46. After sale of lots--Effect.

The recordation of an instrument or ordinance of vacation as provided for in section 16-45 shall operate to destroy the force and effect of the recording of the plat, or part thereof, so vacated, and to vest fee simple title to the center line of any streets, alleys or easements for public passage so vacated in the owners of abutting lots, free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any such street, alley or easement for public passage is located on the periphery of the plat, such title, for the entire width thereof, shall vest in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be revested in the owners, proprietors and trustees, if any, who signed the statement required by the Code of Virginia, as amended, free and clear of any rights of public use in the same.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-47. Duty of clerk.

The clerk shall write, in plain legible letters, across each plat, or the part thereof, vacated pursuant to the provision of this article, the word "vacated" and also make reference on the same to the volume and page in which the instrument of vacation is recorded.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-48. Vacation of boundary lines.

The boundary lines of any lot or parcel of a valid and properly recorded subdivision may be relocated or otherwise altered provided such action does not create any new lots, and does not affect any street, alley, easements for public passage, or other public areas; (or, in the event that easements or utility rights-of-way would be relocated or altered, the express written consent of all parties holding any interest therein shall be obtained in form acceptable to the agent). Such alteration of boundary lines shall be executed by (1) the owner or owners of such lot or parcels submitting a plat and certificates prescribed in article III of this chapter, (2) the agent's approval of such plat and (3) the recordation of the plat with the clerk.

(P.C. Ord. No. 5-87, (part), 4-22-87)

Sec. 16-49. Fees.

There shall be a charge for the examination and approval or disapproval for every plat submitted for vacation to the county according to the fees established by the board of supervisors.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-93, 8-25-93)

ARTICLE V. APPEALS

Sec. 16-50. General.

Any person aggrieved by a decision of the agent may appeal said decision to the county administrator within ten (10) days after the agent's decision.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 26-92, 12-16-92)

Sec. 16-51. Plats.

- (a) If the agent fails to approve or disapprove the plat within the time period allotted after official submittal for approval as set forth in this chapter, the subdivider, ten (10) days after providing written notice to the agent, may petition the Circuit Court of the county to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.
- (b) If the agent disapproves a plat and the subdivider contends that such disapproval was not properly based on this chapter, or was arbitrary or capricious, he may appeal to the Circuit Court and the court shall hear and determine the case as soon as may be, provided that the appeal is filed with the Circuit Court within sixty (60) days of the written disapproval by such agent.
- (c) The clerk shall not file or record a plat of a subdivision or deed involving a division of land required to be recorded until such has been approved, as required by this chapter. The signature of the agent shall evidence the required approval.

(P.C. Ord. No. 5-87, (part), 4-22-87)

**ARTICLE VI. PENALTIES AND
CIVIL REMEDIES.**

Sec. 16-52. Penalties.

- (a) Any person violating the foregoing provisions of this chapter shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided or transferred or sold, and the description of such lot or parcel lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from any remedies provided for in this chapter.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 94-9, 5-25-94)

Sec. 16-53. NO PERMIT TO BE ISSUED.

No permit or certificate of occupancy shall be issued to any person, firm or corporation for the construction, reconstruction, alteration, or repair of any building, structure, or improvement upon real estate that has been subdivided in violation of this chapter until such time as the property is brought into compliance with the law. Real estate that has been subdivided includes both the newly created lot and the parcel from which it was divided.

**AMENDMENT TO CHAPTER 17 (ZONING ORDINANCE)
OF THE ROCKINGHAM COUNTY CODE**

These proposed amendments are being presented due to amendments to the Subdivision Ordinance, which necessitates changes to the Zoning Ordinance. In addition, there were some changes made to existing definitions so the definitions for the Subdivision Ordinance and Zoning Ordinance would read the same.

**AMENDMENT TO ARTICLE 3 – DEFINITION OF TERMS
Section 17.6. Specific definitions.**

ADD:

Clerk: The clerk of the Circuit Court of Rockingham County, Virginia.

Commission: The planning commission of Rockingham County, Virginia.

Frontage. That line of a lot which adjoins a street or right-of-way unless the primary building location dictates otherwise.

Lot, corner. A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets unless the direction in which the primary building faces dictates otherwise.

Lot of record. A lot, described by a deed or on a plat which has been recorded in the office of the clerk.

Plat. The schematic representation of land divided or to be divided, prepared by a surveyor licensed by the Commonwealth of Virginia. When used as a verb, “plat” is synonymous with subdivide.

Public Sewer – Any system of pipelines or conduits, pumping stations, force mains, sewage treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for conducting or treating sewage, which is owned or controlled by Rockingham County or any authority or district created thereby, or any municipal corporation or other public entity created thereby located within the boundaries

of Rockingham County, or which is owned and operated by a public utility as defined in Virginia Code Section 56-265.1 of the Code of Virginia, 1950 as amended, or its successor statute.

Public Water – Any system of pipelines or conduits, pumping stations, force mains, water treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for providing water services, which is owned or controlled by Rockingham County or any authority or district created thereby, or any municipal corporation or other public entity created thereby located within the boundaries of Rockingham County, or which is owned and operated by a public utility as defined in Virginia Code Section 56-265.1 of the Code of Virginia, 1950 as amended, or its successor statute.

Street width. The total width of the strip of land dedicated or reserved for public travel, including roadways, curbs, gutters, sidewalks and planting strips.

Subdivide. To divide, redivide, partition or develop any land into two (2) or more lots or parcels in compliance with Chapter 16 of the Rockingham County Code.

ADD:

ARTICLE VI. USES IN DISTRICTS

Division 2. Prime Agricultural District A-1.

Section 17-22 Permitted uses.

- (q) Single-family dwelling, single-family dwelling with independent living quarters, or manufactured home, (not including manufactured home parks or subdivisions) unless special use permit required under Section 17-23(a).

Section 17-23. Special uses.

- (a) Single-family dwelling, single-family dwelling with independent living quarters or manufactured home (not including manufactured home parks or subdivisions) to be divided from a larger parcel of land and conveyed to a non-family member in accordance with Chapter 16 of this Code. The special use permit must be granted and the division of land must be approved by the Subdivision Agent and recorded prior to the issuance of a building permit for the dwelling or manufactured home.

TABLE 17-113
Area Regulations – Conventional Districts

Agricultural (A-2) Change 20,000 square feet to 1 acre as shown on attached table (on septic) and 20,000 square feel if on public sewer.

Note: TABLE 17-113 : Area Regulations - Conventional Districts is attached to and made a part of these minutes.

oooooOooooo

REMOVAL FROM THE TABLE AND APPROVAL OF R04-6, REZONING REQUEST OF DAVID MADISON, 133 PARKINS LANE, WINCHESTER.

On motion by Supervisor Floyd , seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table R04-6, request of David Madison, 133 Parkins Lane, Winchester, to rezone 64.66 acres from A2 (General Agriculture) to CR3 (General Residential with Conditions), on tax parcel 126 (A) 19A, and located south of Spotswood Trail (Route 33)

approximately 1650 feet northwest of Cross Keys Road (Route 276) in Election District #3.

The staff recommended approval of this request, noting *this site is compatible with the surrounding residential development and the proffers further define the applicant's intentions. If the rezoning is granted, a subdivision plat, including all required erosion and sediment control plans and construction drawings, must be reviewed and approved prior to construction.*

The Planning Commission recommended approval, stating that this request would fill in between similar developments and the proffers addressed its concerns.

Supervisor Floyd made the following statement. "Mr. Paxton and I met with Mr. Madison on June 16. It was a productive meeting. He is aware of the County's desire to manage growth and he decided prior to the meeting to amend his proffers. He will voluntarily amend his proffers to reduce the number of lots that may be recorded annually and to extend the project build-out period. He will voluntarily proffer that no more than 30 lots per year could be recorded during the first three years of development, no more than 25 lots could be recorded during the fourth and fifth years of development, and no more than 15 lots could be recorded during the sixth year. He plans to act as landowner, developer and homebuilder on this project. He proposes a high-quality subdivision similar to his Winchester "Sovereign Village" development. He will ensure quality in this development through strict architectural control and by including site amenities such as curb and gutter, sidewalks, open space and street lights. Housing values should certainly match and exceed those of the surrounding neighborhoods. He understands our concern for highway safety, and safe and convenient access to Route 33 is also a concern of Mr. Madison's and he agrees to work with VDOT to create safe entrances for this project. It is in the best interest of Mr. Madison's project and in the best interest of the traveling public to do so. His current sketch plan indicates two entrances onto the property. He believes that two entrances best serve this property for traffic management and fire and rescue access. This could be revised during subdivision review (if the rezoning is approved) based on the requirements of the County and other review agencies. Based on preliminary traffic analysis, he anticipates that, in order to develop this property, VDOT will require him to complete significant entrance improvements such as dedicated turn lanes, deceleration and acceleration lanes. He agrees to initiate development at the western most entrance. This entrance would function as a full service entrance with left and right turns in and out of the site. The eastern entrance would be developed in years to come based on development demand and would be limited to right turns in and out of the site."

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD -

AYE; KYGER - AYE; subject to the following proffers, the Board approved R04-6, request of David Madison, 133 Parkins Lane, Winchester, to rezone 64.66 acres from A2 (General Agriculture) to CR3 (General Residential with Conditions), on tax parcel 126 (A) 19A, and located south of Spotswood Trail (Route 33) approximately 1650 feet northwest of Cross Keys Road (Route 276) in Election District #3.

1. The property will be used for single-family detached homes and their permitted accessory structures only.
2. The project will be restricted to a maximum of 150 development lots.
3. No more than 30 lots will be recorded during each of the first three calendar years; no more than 25 lots would be recorded during the fourth and fifth year, and; no more than 15 lots would be recorded during the final year of development.
4. Between four (4) and five (5) acres of open space will be included in the development scheme. In addition, a creek bank restoration program will be completed.
5. Sidewalks will be installed throughout the development to accommodate pedestrian circulation.
6. Curb and gutter will be installed along roads throughout the development.
7. All lots will be served by public water and sewer.
8. If required, an existing County sewer pump station will be abandoned and a new pump station to accommodate my development and the existing sewer load will be built so that there is no net gain in County pump stations. I will bear the full expense of this improvement.
9. Entrances onto Route 33 will be completed in accordance with the Virginia Department of Transportation's design manual "Minimum Standards of Entrances to State Highways".
10. The developer will work with the Virginia Department of Transportation to ensure safe access to Route 33 and to undertake improvements as may be needed to accommodate traffic from this proposed development.
11. In addition to required building setbacks, a thirty-foot wide reserve strip will be maintained on each lot along the northern property boundary adjacent to Route 33 to accommodate future road right of way at such time as VDOT may pursue a road improvement project.
12. Unless otherwise directed by VDOT, a maximum of two (2) subdivision entrances will be established onto Route 33 from this property.
13. A homeowners association will be established to

provide for the maintenance of sidewalks and open space.

14. Street lighting shall be installed throughout the development. Lighting will be decorative fixtures intended to reduce light pollution and glare and appropriate to a residential setting.

oooooOooooo

INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to review by the County Attorney, the Board approved the following staff recommendations.

1. Verizon Wide Area Network Service Contract Renewal

In April of 2001, Rockingham County implemented Verizon's Transport LAN Connection (TLC) product as the backbone of the County's wide area network. The contract for the service was for three years. Verizon staff and county staff have been in discussion regarding the renewal of that contract. Verizon no longer offers the TLC service, as it is based on older equipment and technologies, and is encouraging their existing TLC customers to switch to a newer product offering, Transport LAN Service (TLS). The architecture of the TLS product is quite different from the TLC product, but from the County's point of view, both products will accomplish the same goals. The goals are to provide 100 megabit per second, uninterrupted, secure connections, between our buildings. Verizon will replace the older TLC equipment, which they own, with their new TLS equipment and supply the expertise necessary to make the new equipment work properly with existing county equipment. No existing county equipment will need to be replaced and there will be no installation costs incurred by the County. The monthly rate for wide area network service will increase by \$900.00 a month, an amount that can be absorbed in next fiscal year's budget. County staff expects the new wide area network configuration will increase overall network performance. Staff recommended approving the three-year contract for wide area network service, incorporating TLS technology, as proposed by Verizon.

2. Microsoft Office Professional 2003 Software

Rockingham County implemented the Microsoft Office 97 suite of office products in early 1998. Since that time, Microsoft has released three newer versions of the Office software, Office 2000, Office XP, and Office 2003. With the release of Office 2003, Microsoft has announced that as of July of this year, they will no longer support the Office 97 software product. The County was planning to upgrade its office suite of products this summer. Funds

have been included in the capital portion of the current fiscal year's budget to purchase the new Office product. The cost of the new software will be \$75,000. Staff recommended the purchase of the Microsoft Office Professional 2003 Software product.

oooooOooooo

PUBLIC HEARING ON AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6A, ELECTIONS, TO DIVIDE THE CURRENT PORT REPUBLIC PRECINCT INTO TWO PRECINCTS.

At 8:18 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on a proposed ordinance to amend and reordain Chapter 6A, Elections, to Divide the Current Port Republic Precinct into Two Precincts.

Ramona Crowe said a number of residents would like to return to voting at the Cross Keys Ruritan Hall.

Supervisor Floyd said he had received requests from the citizens in the area that the present polling place is too far to travel to vote. He noted that the Ruritan Hall would provide a better traffic pattern for those who want to vote as they are traveling to work in the morning.

Chairman Ahrend closed the public hearing and called the regular session back to order at 8:21 p.m.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following ordinance and modified the boundary map to conform to the ordinance.

AN ORDINANCE to amend and reordain 6A, Elections, of the Code of the County of Rockingham, Virginia, as follows:

Section 6A-6. Precincts and polling places. Establishment, authority. To establish the polling place of the newly created Peak View Precinct and the newly configured Port Republic Precinct.

Sec. 6A-6. Precincts and polling places--Establishment; authority.

The precincts for each election district and the polling places for the respective precincts are hereby created and established as set forth below:

Election District No. 1

Precinct	Polling Place
Bergton	Bergton Community Center
Fulks Run	Fulks Run Elementary School

Timberville	Plains Elementary School
Broadway	Broadway Municipal Building
Lacey Spring	Lacey Spring Elementary School
Tenth Legion	Mountain Valley--Tenth Legion Ruritan Hall

Election District No. 2

<i>Precinct</i>	<i>Polling Place</i>
Singers Glen	Singers Glen Community Center
Edom	Linville-Edom Ruritan Hall
Melrose	United Methodist Church Social Hall
Mt. Clinton	Mountain View Elementary School
Ottobine	Ottobine Elementary School

Election District No. 3

<i>Precinct</i>	<i>Polling Place</i>
Massanetta Springs	Massanetta Springs Kinnaird Meeting Room
Keezletown	Keezletown Ruritan Hall
Port Republic	South River Elementary School
Grottoes	Grottoes Municipal Building
North River	Cross Keys Ruritan Hall
Cross Keys	?

Election District No. 4

<i>Precinct</i>	<i>Polling Place</i>
Mt. Crawford	Mt. Crawford Ruritan Hall
Bridgewater	Bridgewater Community Center
Montezuma	Montezuma Hall
Silver Lake	Woodmen of the World, Dayton
Dayton	H'burg-Rock. Historical Society Building

Election District No. 5

<i>Precinct</i>	<i>Polling Place</i>
McGaheysville	McGaheysville Elementary School
Elkton	Elkton Municipal Building
South Fork	Gooden Brothers VFW Post
Swift Run	Elkton Middle School
Stony Run	McGaheysville Volunteer Fire Co. Bldg.

(P.C. Ord. No. 83-5, 3-28-83; P.C. Ord. No. 83-6, 7-11-83; P.C. Ord. No. 86-8, 8-27-86; P.C. Ord. No. 8-91, 5-22-91; P.C. Ord. No. 5-92; P.C. Ord. No. 94-15, § 1, 7-13-94; P.C. Ord. No. 95-2, 2-8-95; P.C. Ord. No. 96-13, 8-14-96; P.C. Ord. No. 97-10, 8-13-97; P.C. Ord. No. 98-7, 7-15-98; P.C. Ord. No. 00-9, 5-10-00; P.C. Ord. No. 01-7, 5-23-01; P.C. Ord. No. 02-06; 8-28-02)

**PUBLIC HEARING ON INTENT TO SELL COUNTY-OWNED PROPERTY LOCATED AT
2 SOUTH MAIN STREET TO COURT SQUARE PROPERTIES, LLC.**

At 8:25 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the Board's intent to sell County-owned property located at 2 South Main Street to Court Square Properties, LLC.

Mr. Brown advised that he had received on June 22, 2004, a letter from Attorney Todd Rhea on behalf of James and Roland McHone. He stated, "They indicated that they would pay their original bid, \$650,000, for the building and include 12 months free rental, remove all contingencies other than title, and they feel like they would like to have an opportunity to approach the Board with that and pay for the additional advertising costs." Mr. Rhea agreed that Mr. Brown's comments were a fair summary of his letter. Mr. Brown continued, "There has been quite a bit of publicity on this. Let me review the background of this and the process we went through. Someone who was interested in buying the building approached the County. They submitted an offer, and County officials looked at it. We thought, as a matter of fairness, we should get this out on the street in case someone else might have been interested. In doing that, the Board went far beyond what is called for by State law. The Board authorized Mr. Paxton to advertise the sale of the property. Mr. Paxton made it clear that we were looking to have those interested to have their best offer up front. This is necessary because you have to advertise your bid, have the public hearing and have a cut-off date, which was June 4, 2004. If you don't cut it off at some point, you continue a cycle of bidding and never get to closing. We could have auctioned it off on the Courthouse steps if we were just after the most money. County and School officials will have to remain there for maybe a year. Whoever buys the building will be the landlord for the year. The County needs to be comfortable with the buyer. The Board is comfortable with the people we are dealing with. We asked for bids, evaluated them, took the best bid and went forward. If we allowed someone else to come in, we would never complete the process. We would have to re-advertise. We picked a time and cut-off date and went forward. Both folks who are interested are respectable folks in the community. We would have been comfortable with either of them. We are trying to strike a balance, being fair and moving the process forward. We have gone above and beyond the legal requirements."

Mr. Paxton advised that there were pre-proposal meetings and, subsequent to the submittal, the staff had conversations with both parties to get additional information on the rental pricing. He pointed out that the opportunities ended on June 4, 2004, and there was no further discussion other than with the Board's Finance Committee.

Nancy Garber advised that she had operated a jewelry store in downtown Harrisonburg for 47 years and that she had collected historic memorabilia of Harrisonburg

and Rockingham County for many years. She noted the McHone family's reputation for preserving historic buildings. She pointed out that they had restored the old bank building. She reminded the Board that the County Office Building was also a historic building, and said she thought the McHone family would "do a better job" in restoring it. She said the Board had a "moral obligation" to help preserve downtown Harrisonburg as a historic district. She noted that the Court Square Properties bought the building at the corner of Main and Elizabeth Streets and said she "could not see that much had been done to that building."

Randy See, owner of Court Square Properties, LLC, said the building he recently purchased had been a "shell" for many decades. He indicated that he had "put considerable funds" into restoration of the building. He stated that he was "very interested and very involved with the movement to bring back downtown" Harrisonburg. He noted that he owned several properties there and had improved every one of them.

Todd Rhea, Clark and Bradshaw, on behalf of Noland and James McHone. He noted that his clients operated the bank building as well as several downtown properties. He advised that they had an ongoing interest in purchasing the County Office Building and had submitted the initial offer and an updated offer \$25,000 higher in price than the offer of Court Square Properties, LLC. He said his clients had not understood that the process was for a closed bid. He said they were "advised by County officials that the County would identify qualified bids after June 4 and then engage in negotiations to obtain the best price." He said the negotiations were not engaged in with his clients. He noted that their bid was "offset by a more attractive leasing price by the other bidder. He pointed out that the "timing was not an overriding issue, the County can control the process and money is not an issue." He noted that his clients had offered to pay all additional expenses associated with the negotiating process. He asked the Board not to approve and finalize the building sale but to engage the two bidders in negotiations to obtain the best terms of the sale.

Lisa Hawkins, Keeler Obenshain, representing Court Square Properties, LLC, advised that her client understood the rules. She agreed that the County had gone above and beyond its legal duties. She pointed out that the County selected the process, set the rules, communicated the rules and applied those rules to select the bid that made the most sense. She cautioned that to reopen the process would impugn the integrity of the process and any future County process. She noted that everyone had the same opportunity and risk, and all played by the rules as set by the County. She asked that the Board approve the bid of Court Square Properties, LLC.

James McHone said he and his brother submitted their bid thinking that it would be "top dollar." He said that, in talking with his realtor and lawyer, he was told to put the dollar amount on the table and "just talk about some rental numbers." He said he did not receive any instructions. He said he assumed the rest of the negotiations would go on after that. He said he would just "like a fair shake and we are only talking about \$25,000 here."

Chairman Ahrend closed the public hearing and called the regular session back to order at 8:45 p.m.

Mr. Paxton said he had spoken with the realtor that represented Mr. Seay and Mr. Rhea. He said he did not speak to Mr. McHone or Mr. Seay directly. He said he explained the bid process, that it was not an auction process. He said he explained that the County did not want to get into the type of situation being requested by the McHones. He advised that the County asked for the best bid "up front." He noted that the proposal from the McHones was not as detailed as the proposal by Court Square Properties. He noted that he went back to Mr. Rhea and asked what he was proposing on the rent. He said Mr. Rhea came back with a proposal with utilities and one without utilities. He noted that when those amounts were deducted from the purchase price, it was less than that of the other bidder.

Supervisor Cuevas stated, "Based on the presentation by the County Attorney and the explanation of the County Administrator and thinking about the taxpayers and the fact that we know we need almost a year to accommodate the movement of the School Board, and the Finance Committee's meeting with staff to look at the numbers based on the proposals, it is in the best interest of the taxpayers to move to accept the recommendations of staff."

Supervisor Floyd seconded the motion.

Mr. Brown said the contract had already been signed with Court Square Properties, LLC. He noted that the Board needed to ratify the contract.

Supervisors Cuevas and Floyd agreed to include the ratification of the contract in their motion.

Supervisor Cuevas said, "It is important for this Board to make sure the process is honored because once an organization loses its credibility, it will lose bidders and potential businesses doing business with the County."

The motion carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

oooooOooooo

COMMITTEE REPORTS.

The Board heard committee reports by Board members and staff.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Automobile Committee, the Board:

- Approved purchase of a 2005 Ford Taurus SE, for the Recreation & Facilities Department, at a cost of \$15,150 (State Contract price) from Sheehy Ford of Richmond, Virginia, to replace a 1993 Corsica, which in turn will be used as a pool vehicle and for mail runs. This vehicle will be purchased with FY 2004-05 budgeted funds.
- Approved purchase of a 2005 Ford Explorer, XLS, 4X4, for the Fire & Rescue Department, at a cost of \$23,206, (State Contract price) from Sheehy Ford of Richmond, Virginia, to be assigned to the Fire Chief and his current vehicle then assigned to the new Assistant Fire Marshall. This vehicle will be purchased with FY 2004-05 budgeted funds.
- Approved purchase of a 2004 Chevrolet Colorado, 4X4, extended cab, 3-door, for the Public Works Department, at a cost of \$16,033, (State Contract price) from R.K. Chevrolet of Virginia Beach, Virginia, to replace a 1999 GMC Savanna Van being utilized by a Pump Station Technician in Utilities.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved the following bad debt write off for landfill accounts.

ACCOUNT NAME	STATUS	AMOUNT
BURRELL CONTRACTING LLC	COLLECTIONS (1998)	\$ 668.56
GARY'S LANDSCAPING	COLLECTIONS (2001)	552.34
JIM'S BACKHOE SERVICE	COLLECTIONS (pre-1998)	620.79
LAYMAN'S GENERAL HAULING	COLLECTIONS (1996)	1,552.30
4 ACCOUNTS		\$ 3,393.99

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following supplemental appropriation as requested by the Director of Social Services for aid to dependent children. These funds are 100% federal and state-funded and require no local match.

Supplemental Appropriation: \$110,000 GL Code: 220-05302-100-5705-000
(TANF) Temporary Assistance for Needy Families

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved a supplemental appropriation of \$377,413 to GL Code: 001-02106-150-3109-000 (Other Professional Services) for reformatting ended chancery causes from paper to digital image in the Office of the Clerk of the Circuit Court (Virginia Circuit Court Records Preservation Program Grant). These funds are 100% state funded and require no local match.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved a Carry Over Appropriation of \$337,413 to GL Code: 001-02106-150-3109-000 (Other Professional Services) for reformatting ended chancery causes from paper to digital image (the unencumbered FY 2003-04 funds appropriated above).

oooooOooooo

CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 9:00 to 9:37 p.m. to discuss performance evaluation of the County Administrator and County Attorney as set forth by Virginia Code Section 2.2-3771(A)(1).

At 9:37 p.m., Chairman Ahrend called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X04-08
SECOND: SUPERVISOR FLOYD MEETING DATE: JUNE 23, 2004

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

Dottie L. Bowen, Deputy Clerk

Chairman Ahrend called the regular session back to order at 9:37 p.m.

oooooOooooo

INFORMATION ITEMS.

The Board received the following Information Item from the County Administrator:

- a. Resolution supporting poultry industry from Augusta County Board of Supervisors.

oooooOooooo

ADJOURNMENT .

By consensus, the Board adjourned the meeting at 9:37
p.m.

oooooOooooo

Chairman